

FOI Request

“I am requesting under the freedom of information act how many of these 34 deaths are being investigated under the section 102 act and the stations involved in these deaths.”

FOI response

Section 102 of the Garda Síochána Act, 2005 provides for independent investigation Garda Síochána Ombudsman Commission (GSOC), of any matter that appears to indicate that the conduct of a member of the Garda Síochána may have resulted in death of, or serious harm to, a person. The provision forms an important element of the State’s framework for the guarantee of compliance with its obligations under Article 2 and 3 of the European Convention on Human Rights.

The power to refer an incident is delegated by the Garda Commissioner to Superintendents whose responsibility it is to decide if it is appropriate to refer an incident to the GSOC. Once GSOC receives a referral from the Garda Síochána, we must investigate the matter.

If a fatality has occurred, particular consideration is given to the State’s obligations under Article 2 of the European Convention on Human Rights (ECHR). The article states everyone’s right to life shall be protected by law.

GSOC received 59 referrals under section 102 of the Garda Síochána Act in 2021. Thirty-four (34) of the referrals received in 2021 related to fatalities and are independently being investigated by GSOC. Following receipt of a referral, a preliminary examination is carried out to establish the relevant type of investigation to undertake, such as, criminal investigation or GSOC led non-criminal investigation (see additional notes below for more information on these types of investigations).

Referrals relating to fatalities by Garda divisions is provided below:

| | Division |
|---|-------------------|
| Deaths in custody¹ (6) | DMR South Central |
| | DMR South Central |
| | DMR West |
| | Louth |
| | DMR North |
| | Laois / Offaly |
| Death during restraint / arrest (1) | Laois / Offaly |
| Death following release from custody (5) | Cork North |
| | Kilkenny / Carlow |

¹ Deaths in Custody (6) includes where a person later died in hospital

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|--|-------------------|
| | Meath |
| | Galway |
| | Kerry |
| Death following garda contact (9) | Kilkenny / Carlow |
| | West Cork |
| | Wicklow |
| | Kerry |
| | Cork City |
| | Kerry |
| | Limerick |
| | Donegal |
| | Waterford |
| Death, Road Traffic Collision (Pursuit) (5) | DMR South |
| | Wexford |
| | Harcourt Square |
| | Kerry |
| | Cavan / Monaghan |
| Death, Road Traffic Collision (Other) (2) | Meath |
| | DMR North |
| Death, (Other) (6) | Kildare |
| | DMR West |
| | DMR North Central |
| | DMR North |
| | North Cork |
| | Louth |

Additional information:

Section 102 of the Garda Síochána Act, 2005, provides for independent investigation of any matter that appears to indicate that the conduct of a member of the Garda Síochána may have resulted in the death of, or serious harm to, a person

Criminal Investigations – All complaints that contain allegations of a criminal nature against Gardaí are investigated by GSOC investigators. Such investigations take place under Section 98 of the Garda Síochána Act, 2005.

GSOC-led non-criminal investigations are carried out by GSOC own investigators. Such investigations often arise where disciplinary, or systemic policy matters identified during the course of a criminal investigation. These investigations are dealt with under Section 95 of the Garda Síochána Act, 2005.