



Garda Ombudsman

INQUIRY INDEPENDENCE IMPARTIALITY

GARDA SÍOCHÁNA OMBUDSMAN COMMISSION

ANNUAL REPORT: 2009



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Mr. Dermot Ahern, T.D.,
Minister for Justice, Equality and Law Reform,
94 St. Stephen's Green,
Dublin 2.

Dear Minister,

It is with pleasure that we present to you our fourth Annual Report, to be laid before the Houses of the Oireachtas, as prescribed by the Garda Síochána Act 2005 ('the Act').

This report covers the year ending December 31st 2009, the second full calendar year of the Commission's operations.

Against the background of the current financial situation the Commission continued to re-evaluate its operations, with a view to achieving greater efficiencies and meeting its operational obligations.

The deployment of a number of Investigations Officers to regional centres continues to prove cost-effective.

An operational unit has been based at Longford, in accordance with the organisational plan promulgated in 2006. This too has proven to be efficient and effective.

A restructuring of the Operations Division which started in 2008 was completed during 2009. With Investigations Officers and Case Officers now working as a single division, under the Director of Operations, an initial backlog of complaints has been effectively eliminated.

Aligned with this, the functions and structure of the Administration Division were reconfigured so as to address the changes and to support fully the core organisational functions of the complaint system and investigations.

With this restructuring complete, a revised set of Key Performance Indicators (Appendix 1) was drawn up and adopted by the Commission. Details are set out in the report.

The Commission continued to engage pro-actively with its stakeholders during the year.

The Commission places a special emphasis on these communications and training activities, being mindful of its objective, set down in the Act, to build confidence in the system for the investigation of complaints.

The Commission maintained regular contact with its counterpart organisations in Northern Ireland, in England and Wales and in Scotland. A productive dialogue continues amongst us in regard to best practices and standards and related matters. On the wider international scale, the Commission continued to maintain dialogue with oversight bodies in particular throughout Europe and in North America.

The Commission remained conscious of its obligations in relation to the protection of Human Rights. These obligations were emphasised in the ongoing staff training programmes undertaken

during the year. The Commission continued its engagement with the Irish Human Rights Commission throughout the year.

With the appointment by President McAleese of Mr. Dermot Gallagher to be chair of GSOC in April, earlier discussions of possible legislative amendments to the Garda Síochána Act 2005 were resumed with officers of your Department and with the Garda Commissioner.

In our 2008 report the Commission had expressed the view that certain amendments to the Act could assist us significantly in achieving further efficiencies and in enhancing the perception of the oversight system as being fair and effective among the public and gardaí alike.

A working party representing GSOC and the Garda Commissioner has been examining possible changes to be recommended for consideration by your Department. Simultaneously, the working party has been reviewing the operational Protocols agreed in 2007 between GSOC and the Garda Síochána, as required by the Act.

We are pleased to say that considerable progress has been made in these discussions and the Commission is hopeful that agreed proposed amendments can be put to your Department later in the year. It is also hopeful that agreed, revised Protocols can be put in place in the coming months.

We would like to acknowledge the co-operation, courtesy and support of the officials of your Department during the year. We would also like to acknowledge the courtesy and active co-operation of the Garda Commissioner and his officers. In particular, we would wish to record that operational relationships on the ground, at Divisional and District level, continue to be professional and effective.

We have had fruitful dialogue with the staff associations within the Garda Síochána and we would like to acknowledge their co-operation, their advice and their courtesy.

We would also like to acknowledge the co-operation and support of various State agencies during the year; these include the Courts Service, the Coroners' Service, the Office of the Director of Public Prosecutions, the Chief State Solicitor's Office, the State Pathologist's Office and the State Forensic Science Laboratory.

We would like to put on record our appreciation of the work of GSOC staff during the year. Since our establishment, we have been impressed by the professionalism, energy and commitment that have been demonstrated. We are especially grateful for the flexibility and adaptability that have been shown as we restructured the organisation.

Yours faithfully,



Dermot Gallagher, Chairman



Conor Brady, Commissioner



Carmel Foley, Commissioner

GARDA SÍOCHÁNA OMBUDSMAN COMMISSION

4th ANNUAL REPORT

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ACRONYMS

AST	Administrative Support Team
CMS	Case Management System
DMR	Dublin Metropolitan Region
DJELR	Department of Justice, Equality and Law Reform
DPP	Director of Public Prosecutions
GSIO	Garda Síochána Investigating Officer
GSOC	Garda Síochána Ombudsman Commission
ICT	Information and Communication Technology
IPCC	Independent Police Complaints Commission (England and Wales)
KPI	Key Performance Indicator
NUI	National University of Ireland
OPONI	Office of the Police Ombudsman for Northern Ireland
PMDS	Performance Management and Development System

EXECUTIVE SUMMARY

A total of 2,097 complaints were received during the year. Of the complaints received in 2009, the total number of allegations arising was 3,509. Of these allegations, 1,178 were deemed inadmissible. The Garda Síochána Ombudsman Commission (GSOC) also received a further 1,543 queries relating to the process for making complaints from the general public.

The most common allegation types were abuse of authority, neglect of duty, discourtesy and non-fatal offences against the person.

The Commission responded to 104 referrals from the Garda Síochána under section 102 of the Garda Síochána Act 2005 (the Act). Such referrals occur when it appears to the Garda Commissioner that the conduct of a member of the Garda Síochána may have resulted in the death of, or serious harm to, a person.

The matters referred to GSOC under section 102 during the year involved 16 fatalities. Fifty per cent of these arose in the context of road traffic incidents. One occurred in Garda custody.

Two investigations in the public interest, under section 102(4), were opened during the year.

Twenty-five files were forwarded to the Director of Public Prosecutions (DPP) for his consideration. The DPP directed prosecutions in five cases.

The Commissioners met formally at six-month intervals with the Garda Commissioner and his senior staff. A meeting of the Consultative Group, involving Garda management, the staff associations, officials from the Department of Justice, Equality and Law Reform and others, was held during the year.

As in previous years, GSOC personnel had continuing input to both induction and advanced training courses at the Garda College. Reciprocally, a number of visits by Garda training staff to the GSOC offices also took place.

The Commission's Outreach Programme, explaining the functions and operation of GSOC to community groups, support organisations, ethnic minorities and others, was continued.

GSOC's provision of information to interested parties, through its round-the-clock media service, responses to queries from state bodies, community organisations, academic commentators, elected representatives and individuals continued throughout the year.

In a year of fiscal restraint, GSOC managed its finances in such a way as to end the year within its allocated budget, which itself had been reduced in response to the current economic climate.

The internal re-structuring which had commenced in 2008 was completed in 2009. This had the effect of bringing all casework and investigations officers into the Operations Division of the organisation, resulting in greater efficiencies. The backlog of cases awaiting admissibility decision, which had built up in the early operational period, was virtually eliminated.

The IT infra-structure was improved. The Case Management System (CMS) was upgraded to enhance file-tracking and identification of trends. Additional investigative analytical tools were made operational. On the public website, the addition of the Browse Aloud feature enhanced that service to vision-impaired users.

The Performance Management and Development System (PMDS) was introduced successfully. Staff training in PMDS was completed and PMDS became an integrated part of the GSOC management approach.

GSOC continued its commitment to training and continuing professional development. Staff learning was facilitated through in-house training days, dedicated courses attendance and support through the Refund of Fees scheme.

CHAPTER 1: Complaints and Investigations

1.1 The Operations Division

All complaints and all investigations arising from referrals or as a result of a public interest matter are processed through the Operations Division (Operations) of the Garda Síochána Ombudsman Commission (GSOC). In resource terms this Division is the largest commitment made by the organisation. It was created out of a merger of the Case Work and Investigations sections.

Operations now comprises three parts Case Work, Investigations and the newly formed Administration Support Team (AST). The AST has streamlined the administration process across the two operational arms of the Division and has achieved efficiencies and consistency with regard to the completion of day to day tasks. The establishment of the AST has freed up Case Officers and Investigators and allowed them to concentrate resources on their primary tasks. The efficiencies achieved through this amalgamation have allowed the organisation to bring greater resources to bear on managing the caseload, to facilitate decision-making at the most appropriate level and to introduce new systems and processes to cope with demands.

Casework Section

The Casework section of Operations is the first point of contact for members of the public wishing to make a complaint to GSOC. In this capacity it also deals with a large number of queries received by the organisation. There were 17 Case Officers working in the section at the end of 2009, which represents a reduction of 3 in the number of staff employed in the section in 2008.

In order to achieve improvements in efficiency, quality, service delivery and value for money, Casework was divided into two areas of responsibility – one dealing with pre-admissible cases and the second the post-admissible cases.

Pre-Admissible Team

Staff dealing with pre-admissible cases have responsibility for taking and recording the receipt of complaints from members of the public and carrying out the administrative functions which are required following receipt of a complaint. They have daily interaction with the public and members of the Garda Síochána in person and on the telephone. They are responsible for ensuring that sufficient information is obtained from complainants at the earliest opportunity to enable a decision to be made on the admissibility of the complaint.

The pre-admissibility process has been improved to the extent that the majority of straightforward cases have been determined admissible or inadmissible within four weeks of receipt of the complaint during 2009. Cases where further information is required to assist in the admissibility determination take longer to process. Timelines have been set within which complainants are expected to provide the information sought, following which the admissibility determination is made based on the information to hand.

This team also manages a large number of queries received by the Division, some of which resulted in a formal complaint being made.

Post-Admissible (Resolution) Team

This team manages cases considered suitable for Informal Resolution (IR) and those which are referred to the Garda Commissioner for an unsupervised investigation under section 94(1) of the Act. The team is divided in two with some staff managing IR cases and others managing cases referred to the Garda Commissioner.

The categories of complaints generally considered by GSOC to be suitable for IR include those where allegations of discourtesy, incivility and neglect of duty are made. A significant number of these complaints could be described as “customer service” complaints. Although there was some increase in the number of cases which were successfully resolved through IR in 2009, there

were a significant number where resolution could not be achieved. Following discussion with the complainant and the Garda member involved in the case, some were subsequently referred to the Garda Commissioner under section 94(1) of the Act while others were discontinued in line with section 93(1)(c) of the Act as further investigation was not considered necessary or reasonably practicable.

The investigation of complaints which are determined to be admissible and referred to the Garda Commissioner under section 94(1) of the Act fall to be investigated by a Garda Síochána Investigating Officer (GSIO) under the Garda Síochána (Discipline) Regulations 2007. Staff of the Resolution team has responsibility for the management of complaints referred to the Garda Commissioner under this section of the Act. They review the complaint files regularly and endeavour to ensure that the Garda investigation is conducted within agreed timeframes as specified in the Protocols agreed between the Garda Commissioner and GSOC and that the outcome is notified appropriately to the relevant parties. The Resolution team has regular interaction during the course of the investigation with complainants, GSIOs and gardaí subject to complaint with a view to fulfilling GSOC's obligations under section 103 of the Act.

Improved business processes and timely issue of reminders to GSIOs have resulted in an improvement in the time taken to complete investigations.

Investigations Section

GSOC has formalised the training of investigators and has agreed an international accreditation model with fellow police oversight agencies in Northern Ireland, Scotland and with England and Wales. During 2009 approximately 70% of GSOC's investigators were accredited to this standard and it is intended that the remainder of the investigations staff will be accredited in 2010.

The accreditation is based on a foundation course in criminal investigation and law provided by Portsmouth University (U.K.), the Honorable Society of Kings Inns and GSOC's own staff. This course was run successfully for the second time in 2009 for officers recruited in 2008.

A professional working relationship has evolved between GSOC's Senior Investigation Officers and Garda District Officers around the country, particularly in relation to the investigation of matters subject to section 102 of the Act.

To facilitate the investigation of critical incidents, GSOC has trained Family Liaison Officers whose tasks include working with bereaved family members. GSOC has also trained eight staff members in Volume Crime Scene Investigation. These officers have been critical in developing effective liaison with the Garda Technical Bureau and the Forensic Science Laboratory. They act as an aide to Senior Investigators in advising on scene management and evidence acquisition in serious incidents.

Organisational learning has contributed to refinements of GSOC's Exhibits' Management Policy and to the rollout of internal training for staff on the handling, packaging and labeling of evidence.

Members of staff of the Operations Division completed training in the interviewing of vulnerable persons and children in accordance with statutory requirements.

In 2009, following directions for prosecution from the DPP on foot of files sent to his office by GSOC, Designated Officers were required to appear in District and Circuit courts. Participation in court proceedings also entailed the organisation of witnesses and maintenance and presentation of evidentiary exhibits. Similar obligations were encountered with regard to a number of Coroners' inquests around the country with the additional responsibility in relation to the composition of jury panels.

During 2009, the Garda Síochána equipped certain operational personnel with OC 'Pepper' spray. GSOC agreed with the Garda Síochána that all uses of this equipment would be notified

to GSOC with accompanying detail regarding the context in which it was used. The process commenced in September 2009 and, as yet, it is too early to identify any particular trends. GSOC continues to collate this information.

1.2 Receipt of Complaints

The public office of GSOC is open from 9.30am to 4.30pm (Monday to Friday) for receipt of complaints and response to queries from members of the public. In 2009, 508 persons were dealt with in the GSOC public office.

Persons who require assistance completing the complaint form may make an appointment to meet with a case officer and this meeting is usually arranged as quickly as possible. It is also possible for complainants to arrive at the GSOC office and make a complaint without a prior appointment. In such circumstances, "walk in" complainants are given the necessary complaint form (GSOC 1) which they can complete at the office or take away and send back by post in a pre-paid envelope. In certain circumstances, assistance can also be provided by case officers to "walk in" complainants in completing the complaint form.

Table 1: Complaint Receipt Method

Complaint Receipt Method	Number
Online	370
Fax	45
Garda Station	448
Interviewed off site	2
Post	503
Public Office	416
Telephone	313
Total	2,097

1.3 Volume of Complaints

GSOC began 2009 with 2,028 complaints on hand from 2008. Of these, 444 were awaiting an admissibility decision.

During 2009, GSOC received a total of 2,097 new complaints, which included a number of queries which were subsequently upgraded to complaints. By the end of December 2009, GSOC had 1,180 complaints on hand of which 170 were awaiting an admissibility decision.

This number of pre-admissible cases represents an acceptable figure for GSOC given the rate at which complaints continue to be received and the time lapse caused by the necessity to elicit further information from complainants on many occasions. It also represents a 62% reduction in the number of cases awaiting an admissibility decision at year end. It came about as a result of the improved business processes which were first introduced in 2008 and were aimed at optimising process efficiency and eliminating the backlog of cases awaiting admissibility decision which had built up over the first year or so of GSOC's existence

In addition, a large proportion of Case Officer time was taken up responding to queries from members of the public trying to establish what might happen if they made a complaint, or whether or not GSOC was the right place to make their particular complaint. 1,543 such queries were dealt with in 2009.

Table 2: Complaint Throughput

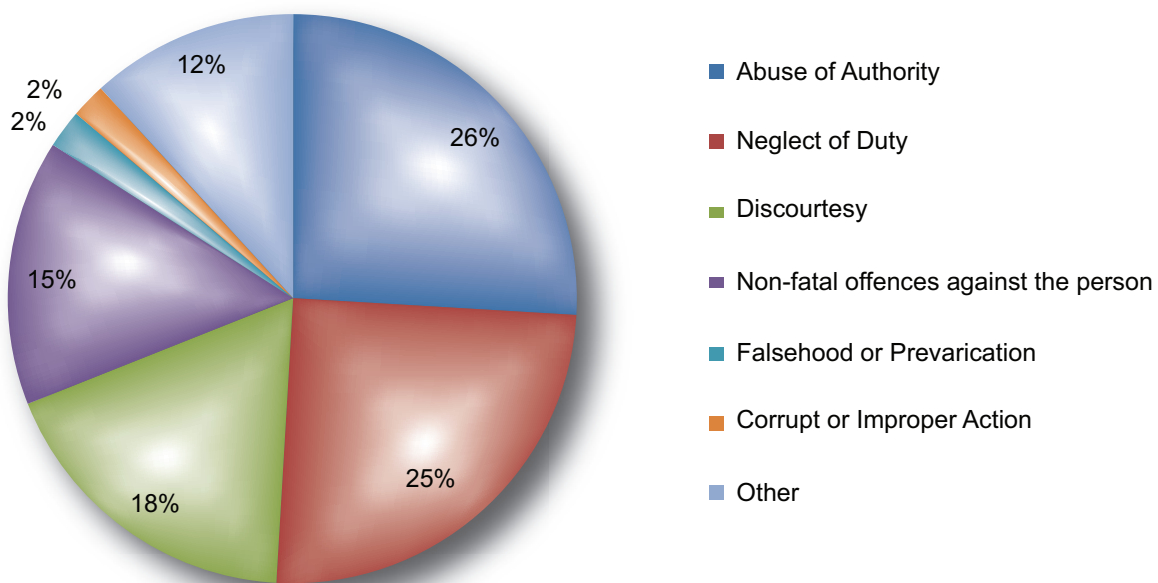
Complaint Throughput	Number
On hand 31/12/08	2,028
Received in 2009	2,097
Closed in 2009	2,905
On hand 31/12/2009	1,220

1.4 Allegations

GSOC received 3,509 allegations in 2009. A complaint may contain several allegations. This arises when a complainant alleges more than one action constituting misconduct on the part of a garda. It also arises when a complaint refers to more than one garda. Consequently, the number of allegations is greater than the number of complaints. An example of this, from 2008, is that one complaint received alleged three separate actions constituting misconduct on the part of six individual gardaí. On investigation, the DPP brought charges against four gardaí on two charges each. GSOC reports on allegations as this presents a more accurate picture of the grievances of complainants and the work undertaken by GSOC in responding to them.

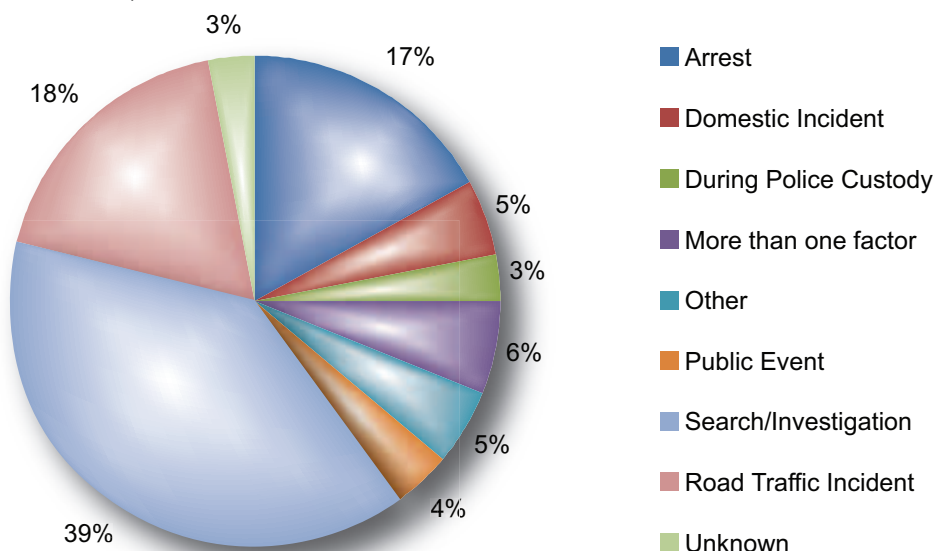
Chart 1 illustrates the six main allegation types received in 2009.

Chart 1: Allegation Types



Factor describes the context in which the complaint arose.

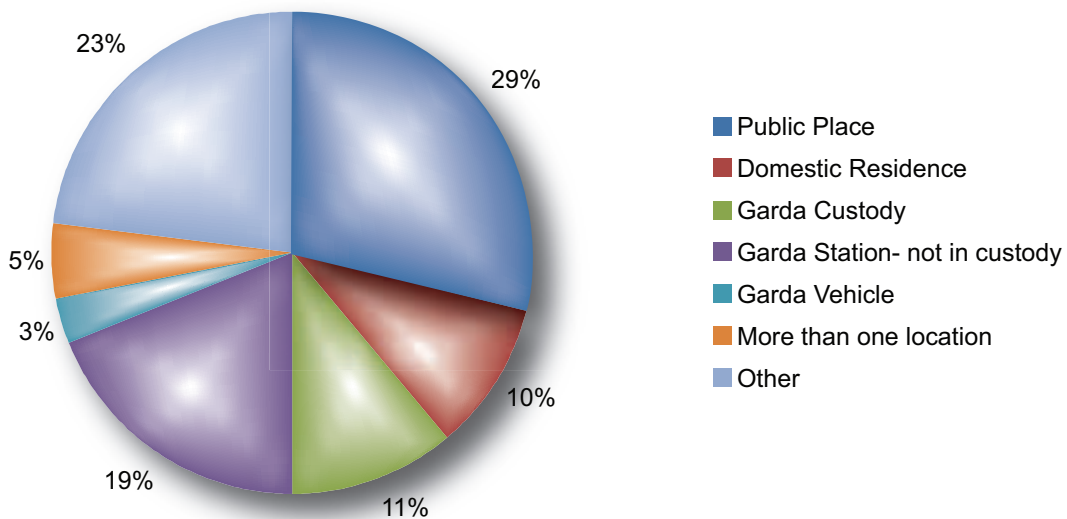
Chart 2: Factors in Complaints



Location

GSOC, in seeking to identify patterns of complaints, sought to establish the types of places in which the actions were alleged to have taken place.

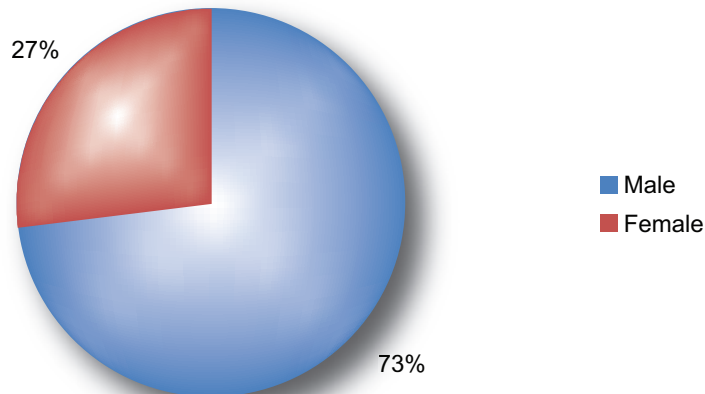
Chart 3: Allegation Location



1.5 Complainants

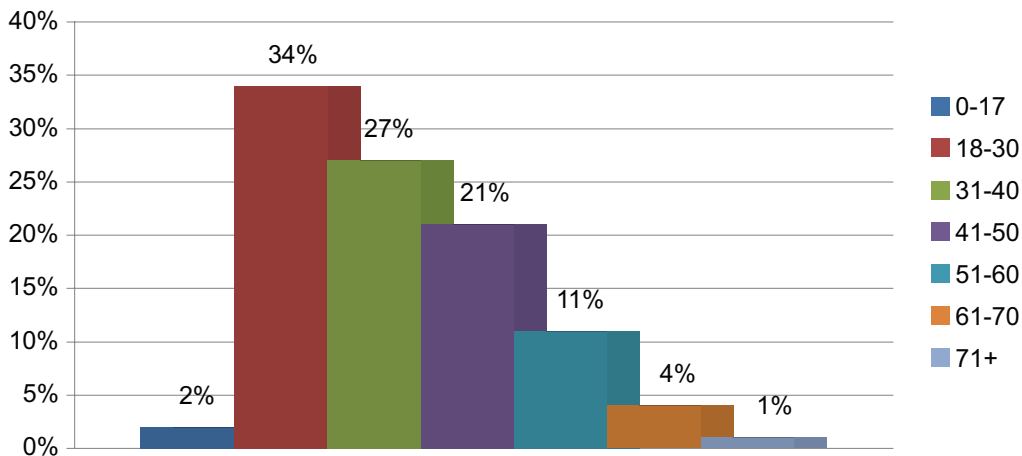
Complainant Sex

Chart 4: Complainant Sex



Complainant Age

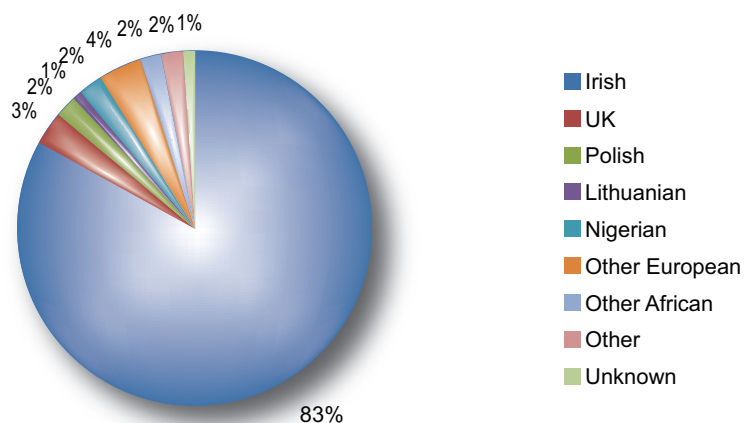
Chart 5: Complainant Age



Complainant Nationality

The GSOC complaint form asks complainants to indicate their nationality. In many cases, complainants chose to not fill this in. GSOC, in 2009, conducted an extensive survey of complainants in order to establish, among other things, nationality. The result is set out in Chart 6. It shows that non-nationals comprised 17% of the total. This compares to 10% non-national representation in the overall population in the State.

Chart 6: Complainant Nationality

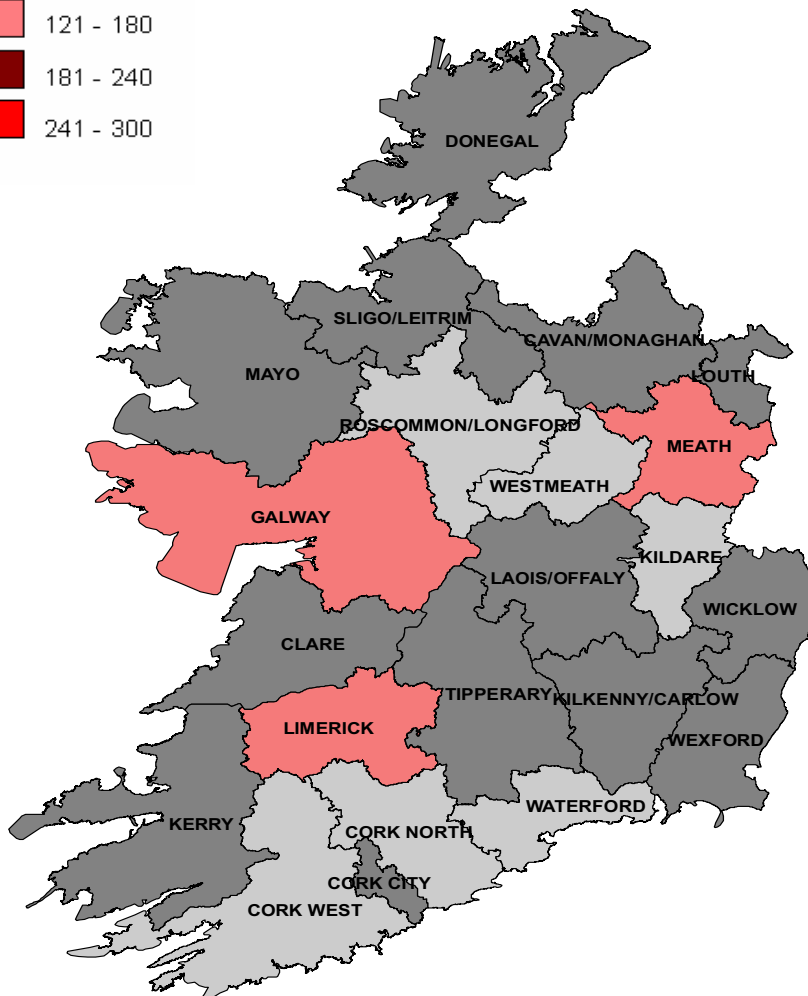
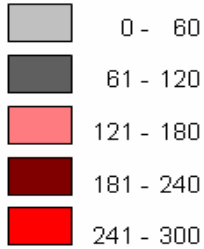


1.6 Gardaí who were Subject to Complaint

Allegations per Garda Division except the Dublin Metropolitan Region (DMR) are shown in Map 1 and Allegations per Garda Division in the DMR are shown in Map 2.

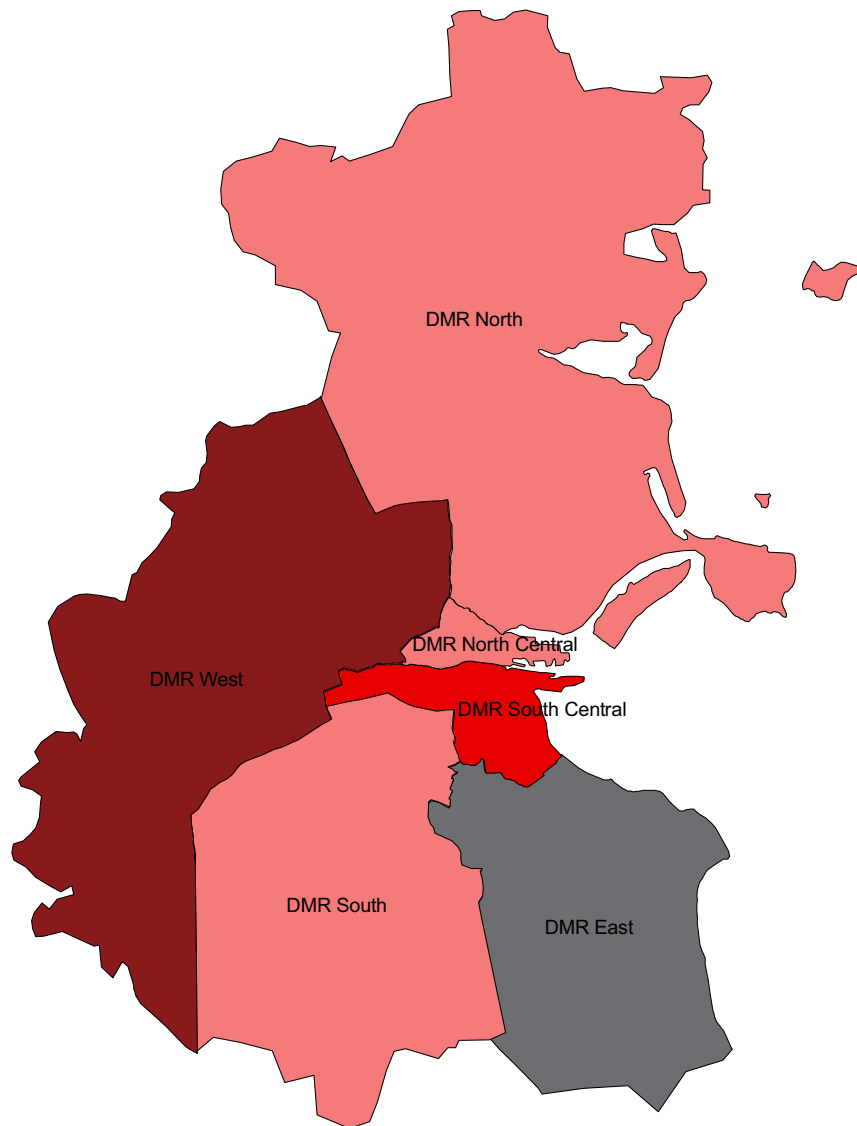
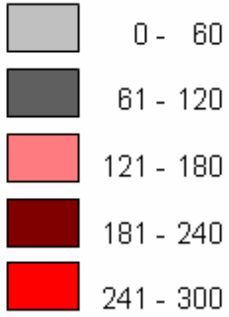
Map 1: Allegation per Garda Division except DMR

No. of Allegations



Map 2: Allegations per Garda Division in DMR

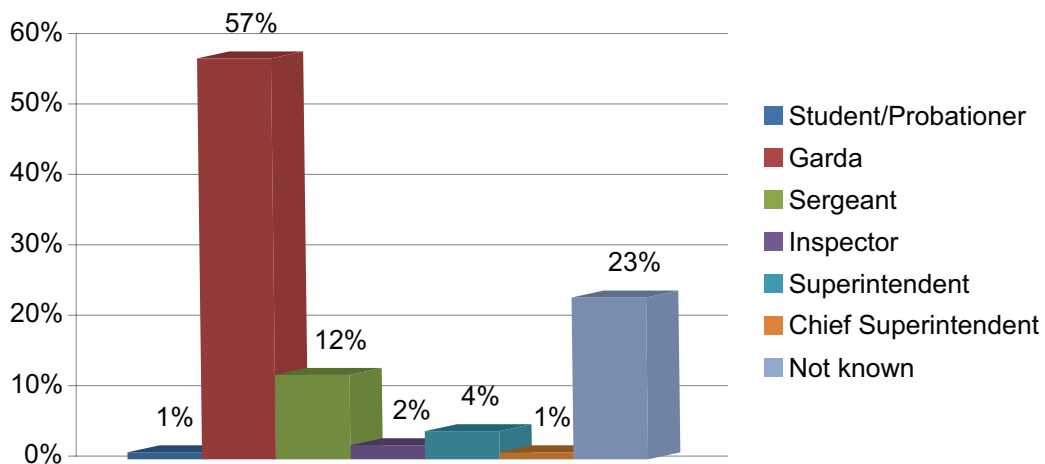
No. of Allegations



Garda Rank

Ranks of gardaí complained about in each allegation are displayed in Chart 7.

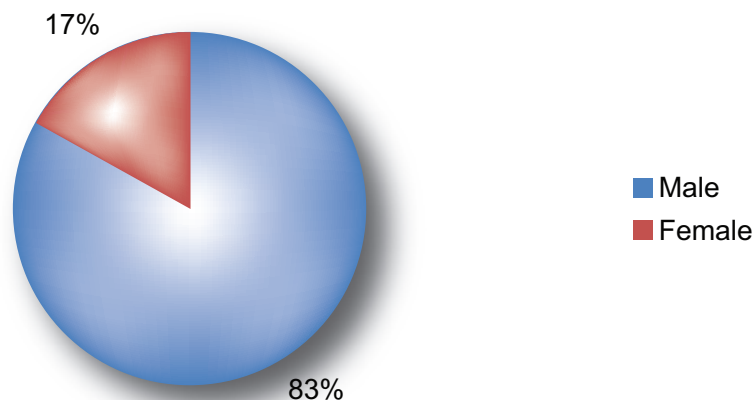
Chart 7: Garda Rank



Garda Sex

Chart 8 shows the sex of gardaí who were subject to complaint in 2009.

Chart 8: Garda Sex

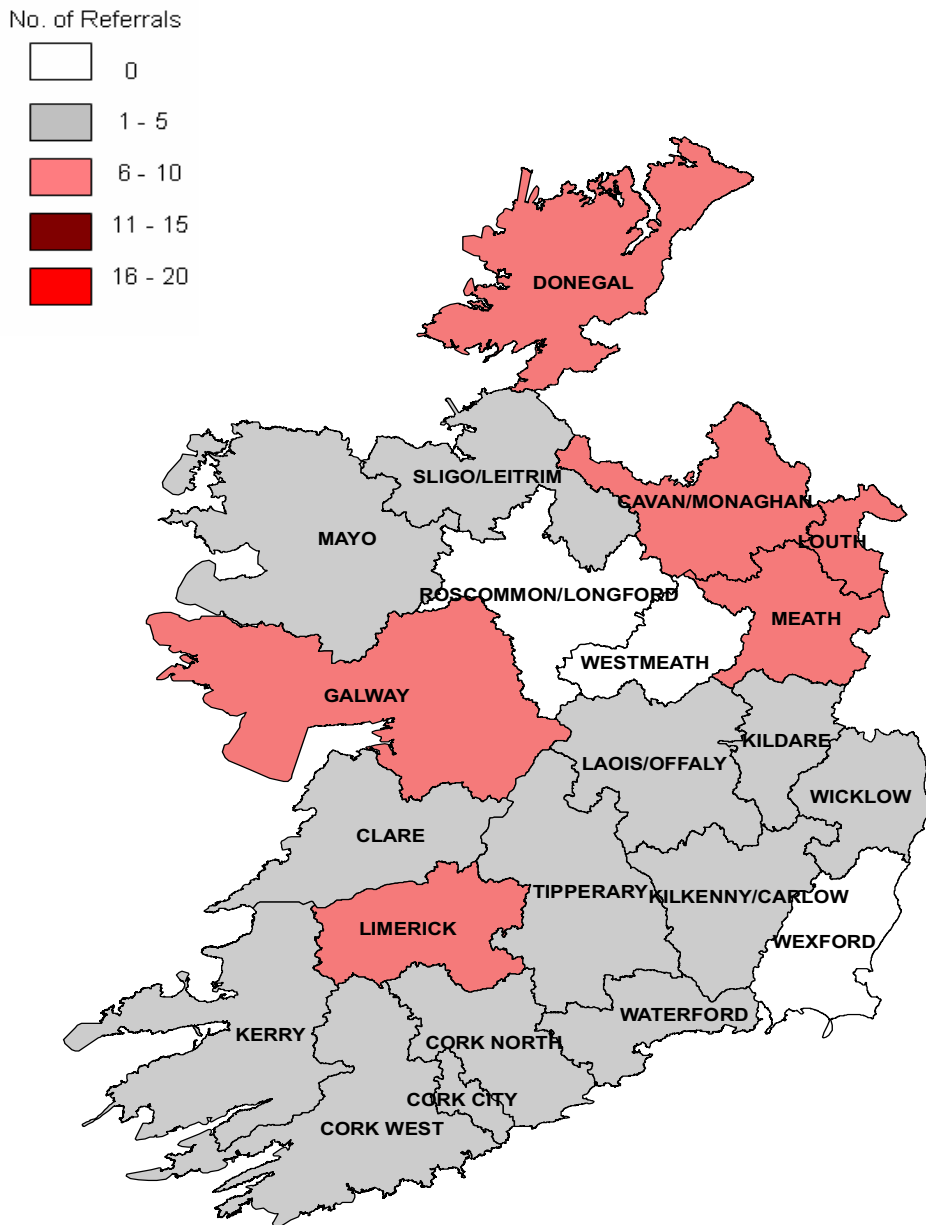


1.7 Referrals under section 102

GSOC received 104 referrals under section 102 during 2009. This is a lower number than in 2008 (129). Road traffic incident was the most common factor- over 50%- giving rise to a referral. Garda custody was second-most common factor at just over 20%. There were 16 fatalities, of which one was a member of the Garda Síochána. Six fatalities arose as a consequence of road traffic incidents; one fatality occurred in garda custody; one fatality occurred as a result of a fatal shooting; and eight fatalities occurred following custody or contact with the Garda Síochána. In all, 124 members of the public were involved in incidents under this section and 153 gardaí were involved to varying degrees. Of those gardaí, 16 were off duty and 137 were on duty at the time of the incident. Of the members of the public involved, the majority, over 60% were aged between 18 and 30 and 80% were male. Alcohol or drug consumption by the member of the public was identified as a factor in 16% of cases. Garda pursuit, observation or attempt to stop a vehicle driven by a member of the public was a factor in 35% of cases, reflecting the high incidence of road traffic matters referred.

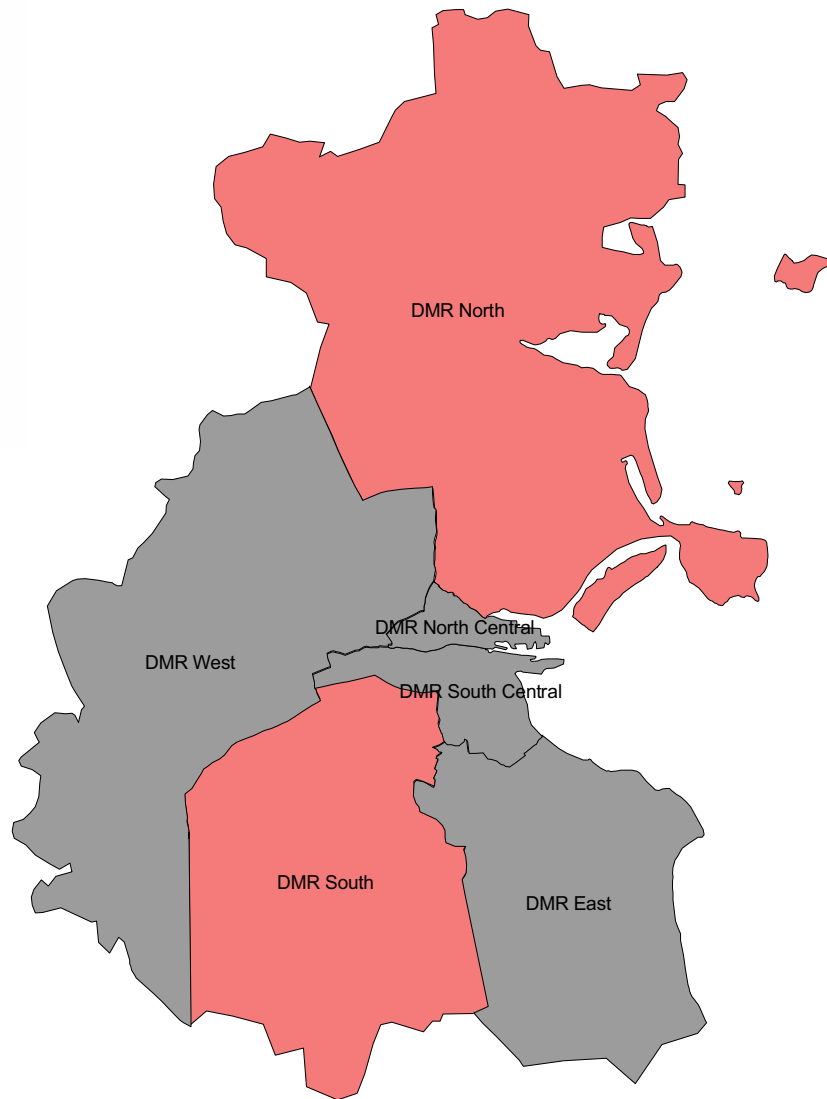
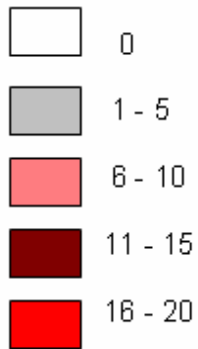
The number of referrals per Garda Division except the DMR is shown in Map 3 and the number of referrals per Garda Division in the DMR is shown in Map 4.

Map 3: Referrals per Division except DMR



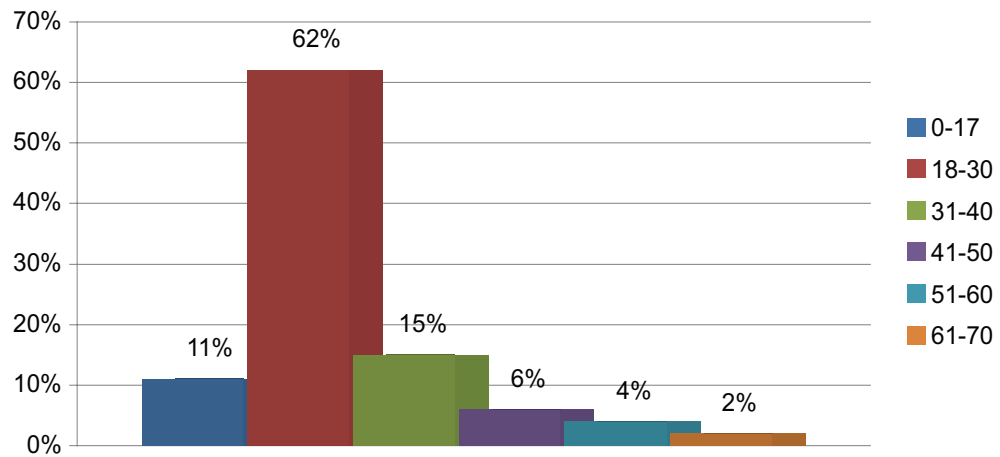
Map 4: Referrals per Division in DMR

No. of Referrals



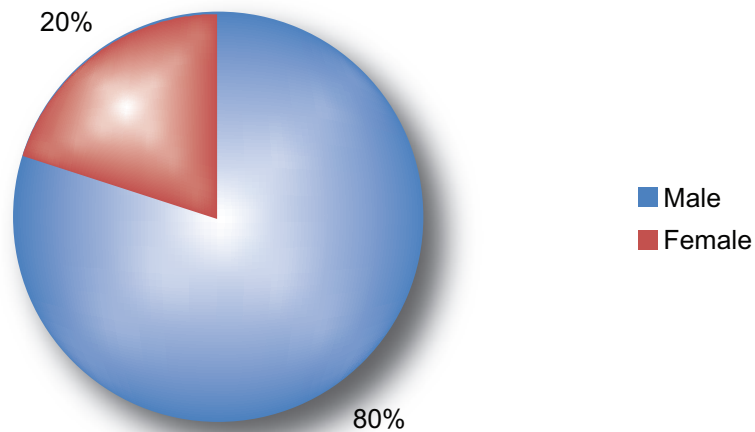
Age of Non-Garda Injured Party

Chart 9: Injured Party Age



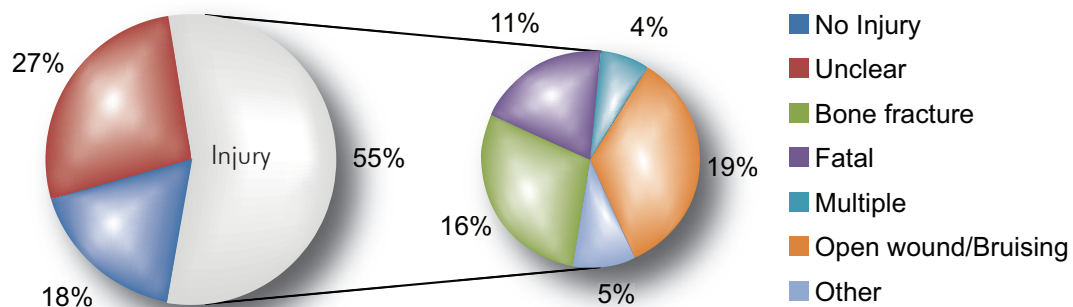
Sex of Non-Garda Injured Party

Chart 10: Injured Party Sex



Injuries Sustained and Nature of Injury

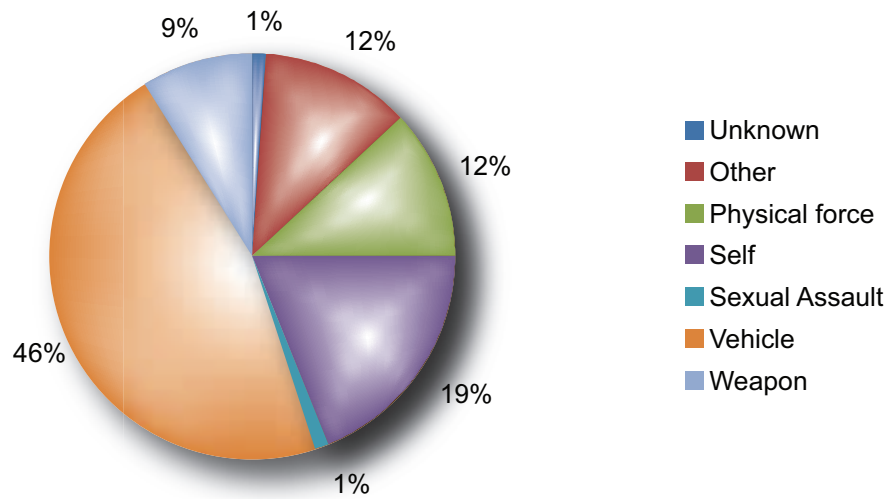
Chart 11: Injury Incidence and Types



In 45% of these referrals, further investigation established that, in fact, no serious injury had been sustained. At the time of the referral, the Garda Síochána was of the opinion, based on the available information, that serious injury may have been sustained.

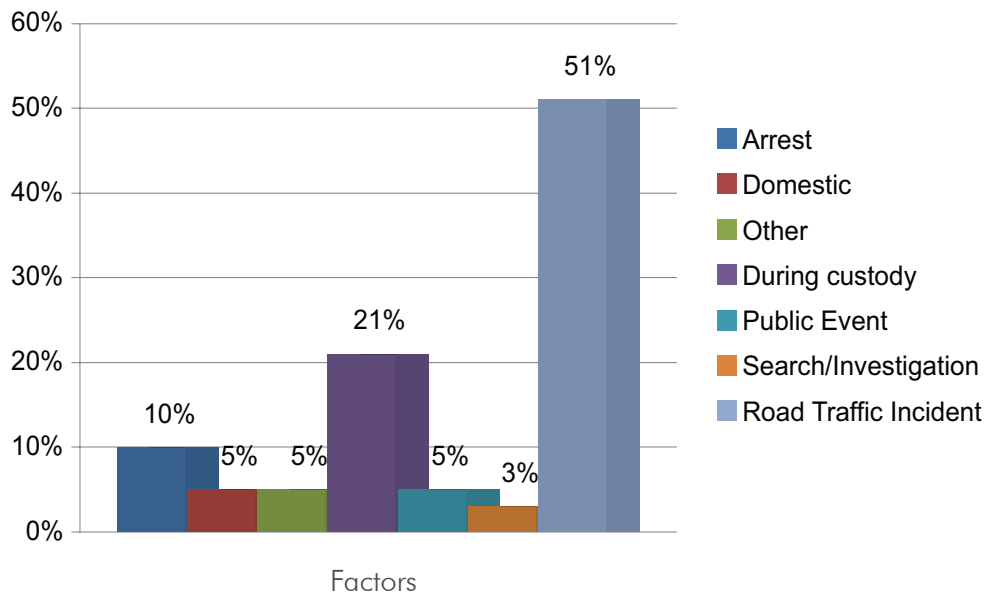
Method by which Injury Sustained

Chart 12: Method by which Injury Sustained



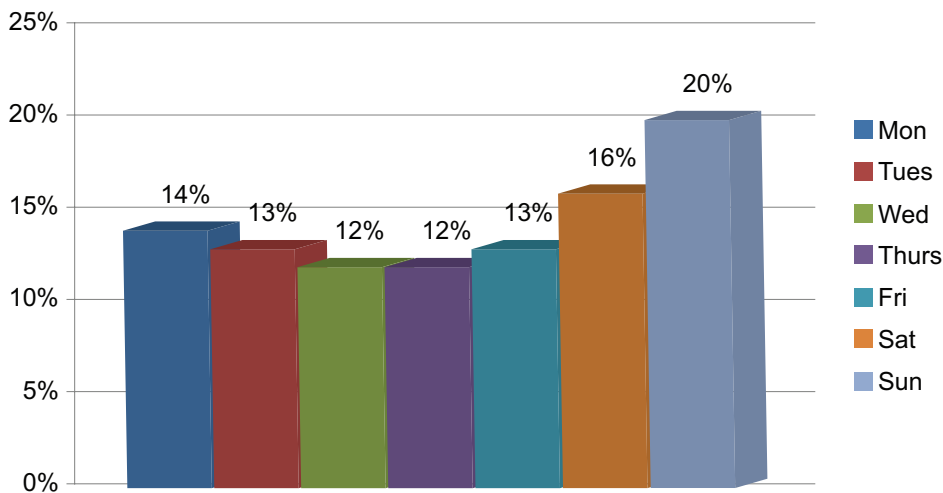
Factor in section 102 Referrals

Chart 13: Factors in Referrals



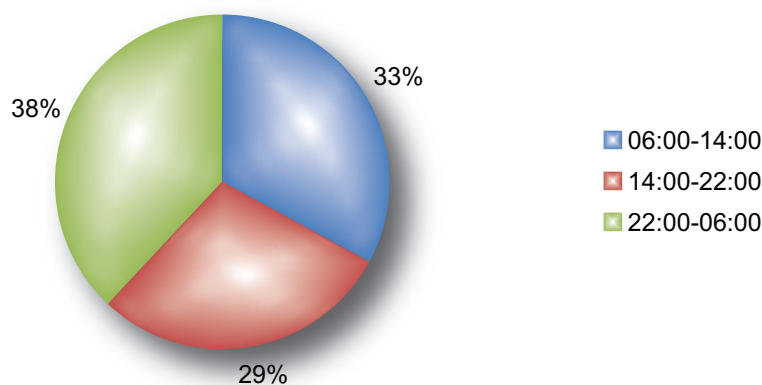
Day of the Week

Chart 14: Day of the Week of Referrals



Time of Day

Chart 15: Time of Day of Referrals



1.8 Section 102(4) – Investigations in the Public Interest

At the 1st January 2009, GSOC was conducting three investigations under section 102(4) of the Act. These are instances where GSOC can investigate without receiving a complaint, if it considers that it is in the public interest to do so. During 2009, GSOC opened two further investigations under this section. All five were ongoing at 31st December 2009.

The cases under section 102(4) which were ongoing at the beginning of 2009 included

- an investigation into the circumstances surrounding the death of Mr. Terence Wheelock on 16th September 2005;
- an investigation into the adequacy of the Garda investigation into the road traffic incident involving the late Mrs Mary Seavers and the compilation of the subsequent Garda report to the DPP;
- and an investigation into allegations of collusion by members of the Garda Síochána with a named individual in the movement and supply of controlled drugs, and into the nature and extent of any relationship/s between members of the Garda Síochána and that named individual.

The two cases opened under section 102(4) during 2009 were

- an investigation into alleged Garda misconduct during the arrest of a juvenile in the Cavan/Monaghan Division in early 2009.
- an investigation arising from concerns regarding the quality of Garda evidence expressed by Judge Frank O'Donnell of the Criminal Circuit Court during a criminal trial.

1.9 Response to Complaints and Referrals

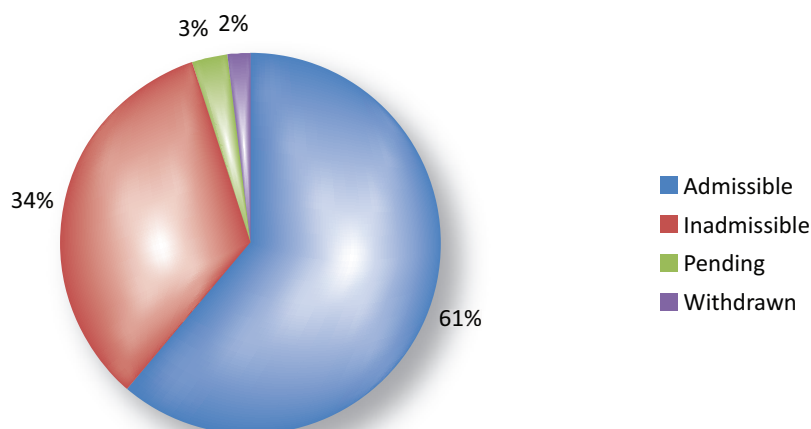
Admissibility

Admissibility covers the complaints process from the point at which the complaint is made to the point where GSOC determines whether it is admissible in accordance with the criteria provided for under section 87 of the Act. If a complaint is deemed to be admissible, GSOC's decision will also determine the process by which the complaint will be resolved or investigated and brought to completion.

In cases where a complaint does not contain enough information on which to base an admissibility decision, Case Officers seek further information in advance of the admissibility decision being made. If the required information is not supplied within a reasonable period of time, GSOC proceeds to make a decision based on the available information. 1,178 allegations were closed as being inadmissible in 2009. Reasons for inadmissibility included complaints relating to matters where the conduct alleged would not, if substantiated, constitute misbehaviour; the complaint was outside of the time allowed; the complaint was frivolous or vexatious; the complaint related to a retired member; the complaint related to the general control and direction of the Garda Síochána.

Admissibility Status of 2009 Allegations

Chart 16: Allegations Admissibility Status (%)



Outcomes

Informal Resolution (IR)

GSOC had 138 cases in IR on 1st January 2009. In a further 186 cases IR was deemed the appropriate form of investigation during 2009. GSOC closed 161 such cases during the year. These cases entailed 205 allegations. The following are the outcomes of these investigations:

Table 3: Informal Resolution Outcome

Outcome	Count
Resolved	30
Otherwise closed in this phase	131
Total	161

Section 94U: Unsupervised Garda Investigation

GSOC had 797 cases in section 94U on 1st January 2009. In a further 407 cases section 94U was deemed the appropriate form of investigation during 2009. GSOC closed 936 such cases during the year. These cases entailed 1,505 allegations. The following are the outcomes of these investigations.

Table 4: Section 94U Outcome

Outcome	Count
Advice	67
Caution	24
Reprimand	12
Warning	5
Reduction in pay not exceeding two weeks	21
No breach of discipline identified	1,376
Total	1,505

Section 94S: Garda Investigation Supervised by GSOC

GSOC had 160 cases in section 94S on 1st January 2009. In a further 89 cases section 94S was deemed the appropriate form of investigation during 2009. GSOC closed 130 such cases during the year. These cases entailed 232 allegations. The following are the outcomes of these investigations.

Table 5: Section 94S Outcome

Outcome	Count
Advice	9
Caution	2
Reprimand	4
Warning	0
Reduction in pay not exceeding two weeks	0
No breach of discipline identified	217
Total	232

Section 95 Investigation

GSOC had one case being investigated under section 95 on 1st January 2009. In a further 42 cases section 95 was deemed the appropriate form of investigation during 2009. GSOC forwarded 34 files to the Garda Commissioner following investigation. At year end, 23 cases remained open; 15 were awaiting a response from the Garda Commissioner following the forwarding of a file to him and 8 were under investigation by GSOC.

GSOC closed 20 such cases during the year. The following were the outcomes of these investigations.

Table 6: Section 95 Outcome

Outcome	Count
Further investigation not necessary	1
Actions below following the forwarding of a file to the Garda Commissioner	
Advice	1
Warning	1
No breach of discipline identified	17
Total	20

Section 98 Investigation

GSOC had 645 cases in section 98 on 1st January 2009. In a further 559 cases section 98 was deemed the appropriate form of investigation during 2009. These entailed 1,094 allegations. GSOC closed 719 such cases during the year. 25 files were sent to the DPP for his consideration.

Table 7: Files sent to the DPP - Outcome

Action	2009	Outcome	
Files sent to the DPP	25		
Awaiting Direction		4	
DPP directed No Prosecution		16	
DPP directed Prosecution		5	
Outcomes of Prosecutions		Conviction	2
		No conviction	1
		Ongoing	2

The 25 files sent to the DPP in 2009 related to 33 garda members and four members of the public. Section 110 of the Act sets out that it is an offence to knowingly provide false or misleading information to a GSOC investigation. These 25 files sent to the DPP included three cases, identifying four members of the public, where section 110 was at issue. Arising from these files, one member of the public was convicted; the DPP directed no prosecution in relation to two; and one is awaiting a direction.

1.10 Section 106 - Examination of Practices, Policies and Procedures of the Garda Síochána

One investigation, into certain aspects of the operation of the Fixed Charge Processing System as operated by the Garda Síochána was completed and forwarded to the Minister for Justice, Equality and Law Reform, Dermot Ahern, T.D. on 30th April 2009.

No new investigations were opened under section 106 of the Act during 2009.

1.11 Protocols

GSOC engaged in extensive dialogue with the Garda Síochána regarding the Protocols between the Commission and the Garda Commissioner. This dialogue formed part of an extensive review of the experience of the operation of the Act to date. Specialist teams from both agencies met at regular intervals to explore issues of concern with a view to proposing enhancements to the Protocols. This constructive, cooperative process was ongoing at year end.

CHAPTER 2: Promotion of Public Confidence

GSOC has a duty under section 67 of the Act ‘...to promote public confidence in the process for resolving those complaints’. In furtherance of this objective, as well as offering an efficient, independent and impartial service to the public, GSOC conducted an extensive Outreach Programme and benchmarked public attitudes against previous years through commissioned independent survey.

2.1 Public Outreach

The outreach programme was designed to promote public confidence in the process for resolving complaints about the conduct of members of the Garda Síochána. GSOC put considerable effort into countering the possibility that sections of society might be marginalised in such a way as to render them unwilling or incapable of using the GSOC service. This could arise through, as identified in GSOC’s survey of public attitudes 2007/8, fear that complaining might “make matters worse” or through a lack of awareness of the complaint system, e.g. for language or literacy reasons. GSOC aimed to disseminate information about the organisation to various interested parties and to collect information for GSOC for internal consideration regarding the optimum approach to such sections of society.

Youths on the Margin

The theme chosen for the Outreach work in 2009 of GSOC’s Outreach Programme was a continuation of ‘Youths on the Margin’. In deciding who to target proactively, the Communications and Research section examined data gathered for the Second and Third Annual Reports (which showed that the most common age of complainants to GSOC in Years one and two fell within the 18-30 years category). GSOC contacted some organisations working with young people to get a sense of whether there was a need and demand for GSOC to talk to them. The response was extremely positive.

GSOC liaised with the Youthreach¹ programme which is targeted at the demographic GSOC found in its case-load.

Twenty-four talks were delivered in 2009 to Youthreach centres in Dublin, Louth, Meath, Cork, Kerry and Donegal. The groups usually comprised of between 30-50 students. Talks commenced with an overview of what GSOC is about and centered mainly on the complaints system, touching briefly on other areas of work – section 102 referrals, practice, policy and procedure issues and investigations ‘in the public interest’. These sessions were extremely informative and interactive. It should be noted that many of the same issues and questions were raised at all the talks which may be indicative of national trends. These outreach initiatives continue to give GSOC an insight into issues of concern to these groups and are as important for the information received as the information provided by GSOC.

2.2 Outreach to Gardaí

GSOC continued its association with the Garda College, Templemore during the year. On the invitation of Assistant Commissioner Louis Harkin and with the cooperation of Chief Superintendent Jack Nolan, GSOC built on previous experience and enhanced its engagement with the Garda College in 2009. GSOC conducted regular seminars, thirty-four in all, with student and probationer gardaí; participants in the management supervisory training programmes at Sergeant, Inspector and Superintendent ranks and participants in various specialist investigation training initiatives. A significant achievement was a seminar with the newly-formed Garda

¹ Youthreach is a nationwide programme that offers 15-20 year old early school leavers and young mothers (up to 21 years) the opportunity to train in both personal and technical skills, and to get nationally recognised qualifications in many activities. It is a programme of education, training and work experience for early school leavers, provided in an out of school setting. In 2007 the Department of Education and Science formally recognised Youthreach as a ‘Second Chance Education Programme’. There are over 100 Youthreach centres nationwide, the vast majority of which would be located in what could be regarded as ‘disadvantaged areas’.

Regional Support Unit for the Western region where the possible interaction of the two agencies in high-profile, high-stress situations was explored in detail.

2.3 Consultative Group

GSOC continued its work with the Consultative Group during 2009. This Group is a forum in which various parties discuss issues of mutual interest and concern.

The bodies which have participated with GSOC in the Consultative Group to date are:

- The Garda Síochána (management);
- Department of Justice, Equality and Law Reform (DJELR);
- Garda Representative Association;
- Association of Garda Sergeants and Inspectors;
- Association of Garda Superintendents;
- Chief Superintendents' Association;
- Garda Síochána Inspectorate;
- NUI Galway's Faculty of Law; and
- Irish Human Rights Commission.

GSOC welcomes contact from all its stakeholders on an ongoing basis.

2.4 Provision of Information

Media

GSOC's Communications team maintained its 24/7 media service throughout 2009. This service is used widely by media professionals particularly in relation to the provision of responses to queries concerning high profile matters in which GSOC was involved.

Queries

GSOC also answered approximately 120 queries from State, non-governmental and individual members of the public and gardaí about specific aspects of GSOC's work or remit. This does not include the complaint-specific queries dealt with by the Casework section.

During 2009, GSOC conveyed material to the DJELR in response to approximately 35 parliamentary questions. GSOC also responded to numerous requests for briefing material for the Minister and the DJELR.

GSOC is covered by the terms of the Data Protection Acts 1988 and 2003. During 2009, GSOC's Policy section responded to 53 access requests under the Data Protection Acts. GSOC is not subject to the Freedom of Information Acts 1997 and 2003.

Website www.gardaombudsman.ie

GSOC published caseload statistics every month on its website. 18% of all complaints made to GSOC in 2009 were made through the on-line complaint form or via the general GSOC email address, both found on the website. In the period 1st October to 31st December, the website recorded 18,438 page views, from 4,659 unique visitors. Visitors browsed from 49 different countries or territories, with 86 % of site visits originating in Ireland.

Academic Engagement

The academic community is a regular commentator on issues which relate to GSOC's area of work. GSOC participated in relevant discussions, presenting papers at three conferences during the year.

International Contacts

Conscious of the need to keep informed of international trends, GSOC maintained its contacts with several relevant international organisations, including the British Irish Ombudsman Association, European Partners against Corruption, the Canadian Association for Civilian Oversight of Law Enforcement and the National Association for Civilian Oversight of Law Enforcement (USA).

Visits to GSOC

GSOC invited guest speakers to address staff on areas of work of relevance to GSOC. These provided an opportunity for staff to hear the views of professional experts in areas of relevance to GSOC's mandate and to gain insights as to how GSOC could enhance its performance in such a way as to promote confidence among some key stakeholders. GSOC staff were grateful for the contributions of many people, including Eamonn MacAodha of the Irish Human Rights Commission, Dr. Sheila Willis of the Forensic Science Laboratory, Inspector Ray Mulderrig of the Garda Síochána and Claire Loftus, Chief State Solicitor.

2.5 Survey of Public Attitudes

GSOC commissioned an independent survey of public attitudes in early 2010. This is interpreted as a commentary on the work of GSOC in 2009. The results are generally positive in terms of growing public confidence in GSOC.

The main findings include

Public awareness of GSOC and its role: 74% compared to 66% in 2008

Public Confidence in GSOC's impartiality/Fairness 79% compared to 62% in 2008

GSOC improves the manner in which gardai deal with members of the public:
76% compared to 71%

Public confidence in GSOC's effectiveness: 50%, no change on 2008

Public confidence in GSOC's efficiency: 48%, no change on 2008

CHAPTER 3: Administration and Support

3.1 Management Overview

The year was characterised by the departure of some staff, the challenging financial constraints and the adoption of a *Statement of Strategy* which reflected re-structuring of GSOC internally.

Seven staff members availed of the special incentivised career break scheme during the year; four departed from the Administration Division and three from the Operations Division. At the close of the year, Operations comprised sixty-three staff and Administration comprised twenty-five staff. This total of eighty-eight does not include the three members of the Commission or the two Garda Superintendents who are seconded to GSOC. While GSOC began 2009 with four seconded Garda Superintendents, two concluded their secondment and returned to the Garda Síochána during the year.

The loss of staff and the unpredictable budgetary environment presented GSOC management with a serious challenge in the maintenance of efficiency and its target of the improvement of customer service. However, as outlined below (section 3.2), GSOC met its goals for the year in terms of improvements in output and fiscal management.

Considerable effort was put into the *Statement of Strategy* and Business Planning process at senior management level and the introduction of the Performance Management and Development System (PMDS) throughout the organisation has now underpinned these processes. The overall effect was a further devolution of responsibility to appropriate levels along with clearer objectives, goals, time-frames and budgetary responsibility. It also facilitated the development of key performance indicators (KPIs) for all sections within GSOC. These are subject to revision to reflect possible improvements to the business process over time. A set of internal KPIs was designed to measure the efficiency and effectiveness of service between sections. A set of external KPIs was also designed against which GSOC can measure its responsiveness, efficiency and overall service to its stakeholders. (Appendix 1).

3.2 Finance

GSOC is committed to the highest standards of governance in regard to its utilisation of public funds. Accountability, accuracy and transparency underpin GSOC financial policies and procedures.

In 2009, GSOC was allocated an overall budget provision of €11.108 million from monies voted to the DJELR. The 2009 budget allocation was made up of €6.3 million in respect of pay and €4.86 million for non-pay expenditure. The projected expenditure was profiled and the expenditure was assigned across the various functional sections; this facilitated increased devolution of budgets to line management and enhanced budgetary control through the production of organisation and section expenditure reports for the senior management team on a monthly basis.

At the end of Quarter 1 and Quarter 2 respectively DJELR sought budget reductions of €50,000 and €1.5 million. The revised allocation of €9.558 million reflected an overall reduction of 13.89%. Despite the significant constraints such a reduction placed on GSOC, by year end 2009 total expenditure amounted to €9.42 million comprising pay expenditure of €6.372 million and non pay expenditure of €3.044 million.

Section 77 of the Act 2005 indicates that GSOC is obliged to have its annual financial statements ready by the 31st of March and submitted to the Comptroller and Auditor General for audit. During 2009 the Comptroller and Auditor General completed the sign off of GSOC financial statements in respect of 2006/7 and 2008.

In view of the specific arrangements in relation to grant of funding from DJELR, as set out under section 71 of the Act, the Secretary General of the DJELR is the Accounting Officer for GSOC. Consequently, GSOC falls under the aegis of the DJELR and is subject to financial oversight by

the Internal Audit Unit of the DJELR. In addition GSOC is audited annually by the Office of the Comptroller and Auditor General and therefore GSOC has not established an Audit Committee at this point in time.

Table 8: Expenditure and Savings.

Please note figures quoted have not yet been audited.

Category	Final Adjusted Budget 2009	Expenditure January to December 2009 € ,000	Budget Remaining € ,000
A01 Salaries, Wages & Allowances		€6,372	
A02 Travel & Subsistence		€232	
A03 - Incidental Expenses		€464	
A04 - Postal & Telecommunication Services		€146	
A05 - Office Machinery & Other Office Supplies		€604	
A06 - Office & Premises Expenses		€1,565	
A07 - Consultancy Services		€36	
A08 - Research Expenditure		Nil	
Totals	€9,558,000.00	€9,4201²	€138

3.3 Human Resources and Training (HR/T)

Introduction of the Performance Management and Development System (PMDS)

2009 marked the first year of operation of the GSOC *Statement of Strategy* and of the related business planning process. A significant effort was made by HR/T to engage personnel in the process through the introduction of the Performance Management and Development System (PMDS). Senior management viewed this as an essential requirement underpinning the business planning process.

HR/T Section managed the roll-out of a GSOC customised PMDS training programme to all staff. The training was designed to take into account the diverse staff backgrounds and roles in GSOC. All key PMDS milestones in GSOC were achieved following the completion of the training.

Ongoing Training and Development

During 2009 the GSOC Training Section facilitated staff attending pertinent training courses, seminars and conferences. This investment in the training and development of staff is reflective of the GSOC commitment that all staff are fully resourced and competent to meet their business goals in a professional and efficient manner.

A full list of training and development activities provided in 2009 is set out in Appendix 2.

² These are provisional figures, accruals are not included and the figures are subject to the confirmation of the finalisation of the accounts by DJELR

Partnership Committee

During 2009 GSOC completed the process of establishing a Partnership Committee which convened regularly during 2009 and addressed a number of issues pertinent to staff and management.

3.4 Information and Communication Technology (ICT) Section

The ICT section has overall responsibility for the management, development and maintenance of the IT systems within GSOC. The section is staffed by four permanent GSOC staff supported by 1.5 WTE contract personnel, under contract with Fujitsu Ireland Ltd. The following services are provided by the section:

Day-to-Day support of Voice and Data Services

The day-to-day support of ICT services extends from the provision of a service desk facility to troubleshooting and the resolution of user, system and application issues. Maintenance undertaken by the ICT section may be preventative or corrective and includes monitoring, inspection, testing, configuration, modification, repair and replacement of ICT hardware/software/firmware components and systems.

The ICT section supports Operations in the retrieval of voice recordings and assists with requests for access to evidential data and multimedia recordings.

In 2009 the ICT section received and resolved 1,258 service requests.

Case Management System

The CMS is GSOC's central system supporting logging, tracking and management of the case management processes.

The CMS was further developed during 2009 to align with new and evolving work processes. Elements of the system were enhanced to allow for greater autonomy in the administration function.

Following an in-depth analysis of reporting requirements the section oversaw development of Management Information Systems reporting solutions.

The CMS infrastructure was redesigned to eliminate resilience issues and to ensure that there is no single point of failure within it.

Investigative Analysis System

An Investigative Analysis Software System was procured and deployed by the ICT section in 2009. This system provides the GSOC Intelligence team with the following capabilities (among others):

- a) To import data from a variety of sources.
- b) To identify factors contributing to an issue, evaluate their probable causes and effects and establish any relationship between them.
- c) To produce graphic presentations in the form of charts to reveal relationships among people, communications, organisations, accounts and other elements hidden within disparate data sets; and to disseminate the resulting intelligence in a manner that can be easily assimilated and acted upon.
- d) To create graphical presentations as a medium of presentation to the courts.

Website

The functionality of the website was further increased with the deployment of 'Browse Aloud' software and a Web Traffic Analysis solution. 'Browse Aloud' is a software solution which caters

for vision impaired users of the Website while the Web Traffic Analysis solution was introduced to provide a statistical analysis of Visitor activity on the GSOC website. (See section 2.4)

ICT Infrastructure at GSOC Regional Offices

GSOC has staff located in two regional offices, Longford and Cork. The ICT infrastructure was extended to the Longford office during 2009 in order that staff in that location would have real-time access to GSOC's IT systems i.e. staff have access to the same applications and systems as those based in the Dublin HQ.

Provision of Secure Email Communication Facility with the Garda Síochána

GSOC is legally obliged, under the Act, to correspond with the Garda Síochána in relation to every complaint received. A system to automate this process, through the use of secure, digitally signed and encrypted email technology, commenced a pilot phase in 2009. This will produce real savings in terms of both costs (postage, stationary, printer consumables) and resources in both organisations.

ICT Steering Committee

An ICT Steering Committee was established during 2009. Its focus to date has been on issues related to security and operational capacity; it is intended that this committee will focus on defining ICT strategy in 2010 and on the production of an ICT Strategy for 2011-2014.

3.5 Legal Affairs

The Legal Affairs section comprises three lawyers and two administrative support staff.

In 2009, the principal functions of Legal Affairs included advising the members of the Commission on aspects of their statutory functions and on their management of cases before the courts in which GSOC had a functional interest. Legal Affairs also engaged with the Garda Síochána Legal Service with a view to identifying potential amendments to the Act that would improve the system of independent oversight of policing.

Legal Affairs had an advisory involvement in the development of systems and policies that affect the running of the whole organisation.

The maintenance and development of strategic relationships with the legal services of other oversight agencies has been an important aspect of the Legal Affairs' work. This included the convening of a regular discussion forum with the legal services of the Independent Police Complaints Commission (IPCC) for England and Wales and the Office of the Police Ombudsman for Northern Ireland (OPONI).

Legal Advice

The bulk of the section's time was spent on supporting Operations by providing legal advice on all aspects of its work including the management of complaints, the conduct of disciplinary investigations and the exercise of investigative powers by Operations. This work involved not only advising on individual cases and files but also on the development of systems, processes and procedures. This has been supplemented by regular training sessions, for the staff of Operations and the Commission, on core legal issues of relevance to GSOC's work. Legal Affairs has also been heavily involved in supporting Operations in preparation for, and attendance at, trials and inquests as well as advising on correspondence with legal advisers for parties to investigations.

Litigation

Legal Affairs is responsible for the day-to-day management of all litigation involving GSOC, both civil and criminal. It also co-ordinates liaison with the Office of the DPP and the State Solicitor network.

3.6 Corporate Services

Decentralisation

Corporate Services liaised with the DJELR, the Irish Prison Service (IPS) and the Office of Public Works (OPW) to complete the process of establishing a regional office in the IPS building in Longford. The Mid-Western Investigations team became functional at that location in the first quarter of 2009.

Health & Safety

Health and Safety initiatives were completed including Ergonomic Assessment of staff, and a Building Safety Audit. The Health and Safety Committee ensured the ongoing implementation of legislative requirements and facilitated a secure working environment and conditions for all GSOC staff.

Green Working Group

The Green Working Group, (consisting of volunteers), established in 2008, continued to profile green issues and successfully implemented initiatives resulting in reductions in energy usage and achieving financial savings for GSOC.

3.7 Communications and Research

Media

The section provided a round the clock response to media enquiries and responded to all such queries it received. This service was particularly relevant in relation to high-profile incidents which were referred to GSOC and which required individual media strategies.

Library

The Library expanded its collection of material and databases through 2009. The Library plays a pivotal role in assisting the various teams across the organisation by providing up to date material relevant to GSOC's remit. The Library handled in excess of three hundred substantive queries in 2009 in relation to investigative, legal and research issues.

Research

GSOC presented a paper to an audience of academics, practitioners and students of policing at a conference on police governance and accountability convened by the University of Limerick; a paper regarding the uptake of GSOC's services to a post-graduate conference organised by the Sociological Association of Ireland; GSOC also addressed Trinity College Dublin's *Trinity Immigration Initiative*, on the topic of migrants and the police complaints system.

Membership of the European Society of Criminology and the Association for Criminal Justice Research and Development were maintained in 2009 on the basis that both enable GSOC to keep abreast of emerging developments in criminal justice research.

GSOC continued its collaborative work with its equivalent bodies in Northern Ireland and England-Wales.

3.8 Policy Section

The Policy section continued to work on policy-related issues in 2009. The *Child Welfare and Protection Policy* was one of the most significant policies to be finalised along with a *Policy and Process Guide* for the investigation of complaints under section 95 of the Act and a *Road Traffic Incident Investigation Guide*. These projects were marked by considerable cross-unit cooperation and inter agency consultation.

In line with the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001, GSOC's Policy section coordinated the annual responses by the holders of all designated posts within the organisation and forwarded those responses to the relevant authority.

CHAPTER 4: Conclusion

GSOC had a busy second full year of operational activity in 2009. The volume of complaints was lower than in 2008, but the number of allegations of misconduct against gardaí, at almost three and a half thousand, was broadly in line with what GSOC estimated at its inception as an international average relative to the numbers serving in the Garda Síochána. The nature of those allegations was not markedly different from 2008. With two and a half years of operational activity complete, GSOC can now begin to identify overall trends of behaviour and that will be a feature of its work in 2010. In 2009, GSOC worked with Garda management to address these issues. Through regular contacts with senior officers, the Garda College and individual Divisions, GSOC brought the lessons learnt from its investigations to gardaí at all ranks.

The volume of referrals under section 102, incidents involving serious harm or death, was lower than in 2008. This reflects a trend from the early days of interaction with the Garda Síochána, as the Protocols between the two agencies are understood more widely and interpreted more consistently. Co-operation with regard to the investigation of these serious incidents has been good from GSOC's point of view.

GSOC is very appreciative of the time taken by many individuals and agencies, including the Garda Staff Associations, to discuss matters of mutual interest with officers of GSOC. This dialogue serves to enhance understanding of GSOC's role and to identify issues of concern at an early stage. It also assists in the promotion of public confidence in the system.

From a budgetary and staffing perspective, 2009 was a challenging year. The challenges notwithstanding, GSOC opened its regional office in Longford, improved IT support to other regional staff and met its statutory obligations within budget.

Internally, GSOC re-structured its Divisions into two- Operations and Administration. That had the effect of producing greater efficiencies by bringing all Casework and Investigations staff into one Division. Externally, the effect of this re-structuring resulted in the virtual elimination of the pre-admissibility backlog which had built up in the early months of operational activity. It also meant that complainants and gardaí received a speedier response to complaints and queries. It is hoped to review these effects in 2010 with a view to further enhancing the output of the organisation and to improving further the service to all stakeholders.

Central to the service provided by GSOC is the legislation under which it operates. Discussions about legislative amendments are ongoing and the assistance of the DJELR in this process is appreciated. Discussions with the Garda Síochána of the protocols around the inter-action of the two agencies were commenced in 2009 and much progress was made. That process is ongoing.

Overall, GSOC built productively on its relationship, with the Garda Síochána in particular, during the year. These relationships, along with the proposed changes to the Protocols and proposed legislative amendments will enable GSOC to enhance further its oversight role and responsibility, including fostering a stronger culture of responsiveness to complaints and, of critical importance, engendering greater public confidence in the system as a whole.

APPENDIX 1 KEY PERFORMANCE INDICATORS (EXTERNAL)

Key Performance Indicators (external)

OPERATIONS DIVISION

Telephone calls to be answered within 60 seconds.

Visitors to the public office met by a Case Officer within an agreed timeframe.

Acknowledge complaints within 24 hours.

Notify Garda HRM of receipt of complaints within 24 hours.

Determine admissibility in straightforward cases within four weeks.

Contact complainants where further information is sought within two weeks of receipt of complaint in less straightforward cases.

Notify parties of Informal Resolution admissibility determination within two weeks of the admissibility determination.

Resolve, escalate or discontinue Informal Resolution cases within 8 weeks.

S94(1) notify parties of admissibility determination within two weeks of the admissibility determination.

Advise/update complainant of status of complaint within 28 days.

Investigation of complaints designated s.98 concluded within 24 weeks.

Investigation of complaints designated s.95 concluded within 14 weeks.

Investigation of complaints designated s.94(5) concluded within 20 weeks.

Investigation of cases referred under s.102 concluded within 20 weeks.

ADMINISTRATION DIVISION

To respond to news-media queries during working hours within two hours.

To respond to news-media queries outside working hours within four hours.

To respond to information requests from other State agencies within 24 hours.

To respond to information requests from the general public within 24 hours.

Acknowledge receipt of Parliamentary Questions (to DJELR) within one working day.

Forward substantive response/contribution to the DJELR within the timeframe specified by the Department.

Acknowledge receipt of Data Access Requests within one working day.

Respond to Data Access Requests within the statutory deadline (40 days max.).

Acknowledge FoI requests within one working day.

Acknowledge receipt of Representations within one working day.

Issue response to Representation within three working days of receiving material from relevant GSOC Division/Section.

Maintain ICT services to a level that ensures a maximum non-availability period of 5% per annum to our service users.

Full compliance with the core principles of procurement; ensure Value for Money is achieved.

APPENDIX 2 TRAINING AND DEVELOPMENT ACTIVITIES

Training took place with regard to the following areas

- PMDS Training (Introduction)
- PMDS Training (Part 2)
- Exhibit Handling
- Management of Vulnerable Persons
- Child Protection Training
- Case Management Training
- Crime Scene Investigations
- Use of Firearms
- Homicide Investigation
- Microsoft Excel
- Microsoft Project
- Firewall Training
- Safe Evacuation
- Clerical Officer Development
- Data Protection
- Procurement
- Investigator Training – ongoing assessment (University of Portsmouth)
- Advanced Investigative Training
- MS SQL Server
- Criminal Law Conference
- Assistant Secretary Network
- Departmental Training Officer Network
- British and Irish Ombudsman Conference
- Scene Designation, Arrest and Detention

In addition to the training and conferences attended, GSOC also resources its staff regarding 3rd level qualifications by promoting the 'Refunds of Fees' scheme. In the 2009-10 academic year GSOC staff have undertaken the following studies;

- PhD in Governance x 2
- MA Public Management x 3
- BA Irish Language
- Certificate in Civil Service & State Bodies x 2
- Bsc (Hons) Human Resource Management
- BA Human Resource Management

Garda Síochána Ombudsman Commission

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An Irish version of this report can be
obtained from the Garda Síochána
Ombudsman Commission, on request.