



GardaOmbudsman
INQUIRY INDEPENDENCE IMPARTIALITY

Garda Ombudsman: spin and misinformation

How the Garda Síochána Ombudsman Commission blatantly misled the public over the March 2011 Corrib Garda rape comments recording and undermined the women who brought the recording to public attention

April 5th, 2012

Garda Ombudsman: spin and misinformation

How the Garda Ombudsman blatantly misled the public over the March 2011 Corrib Garda rape comments recording and undermined the women who brought the recording to public attention

April 5th, 2012

This document examines the handling by the Garda Síochána Ombudsman Commission (GSOC) of its investigation into the incident in Co Mayo on March 31st 2011, when a Garda sergeant and several Gardaí inadvertently recorded themselves discussing threatening to rape a woman who was in their custody. The manner in which GSOC conducted its investigation, particularly its July 2011 'Interim Report', is deeply troubling in several respects. The evidence suggests that GSOC attempted to serve the interests of Gardaí by undermining the women who made the recording public, while deflecting attention from the behaviour of Gardaí.

GSOC'S INTERIM REPORT: TWO KEY FALSEHOODS FED INTO PUBLIC DOMAIN

GSOC's Interim Report (July 2011) into the incident undermined the case against the Gardaí primarily through two key pieces of false information:

i) The report implies that the recording of the Garda conversation on March 31st had been "tampered with" before being handed to GSOC. In fact, this recording was fully intact on the camera and had not been altered in any way. GSOC was clearly fully aware of this fact. However, GSOC exploited a confusion created by the deletion of an older, unrelated file from the camera – a recording of a confidential academic research interview.

ii) The report implies that one of the women arrested on March 31st may have said the word "rape" during the arrest. The two women utterly refute the suggestion that they said the word "rape" at any time. However, the report fails to make any reference to their accounts of the arrests, despite the fact that GSOC officers had full statements from both and interviewed one of them for 4.5 hours. Instead, the report quotes an unnamed Garda who gives a vague account of possibly having heard one of the women mention rape.

GOING AFTER THE PEOPLE WHO BROUGHT THE RECORDING TO PUBLIC ATTENTION

One year on from the start of GSOC's investigation, there is no word of any disciplinary action against the Gardaí involved. The only people threatened with criminal prosecution in relation to the Corrib Garda "rape" comments incident were the people who brought the recording to public attention. Within days of the release of the recording, GSOC threatened several people with criminal proceedings: Jerrie Ann Sullivan, one of the women whose arrest led to the recording being made; Caoimhe Kerins, a Dublin Shell to Sea spokesperson; several of Ms Sullivan's academic supervisors from NUI Maynooth and Ms Sullivan's solicitor. GSOC also briefed journalists in a way that undermined these people. One example was an article in the News of the World on April 17th 2011, which quoted GSOC sources as saying that Ms Sullivan was not co-operating with its investigation. This document contains accounts by some of these people of their dealings with GSOC.

HIGHLY SELECTIVE REPORT BY GSOC

GSOC officers interviewed Ms Sullivan for 4.5 hours. They also interviewed several of her academic supervisors from NUI Maynooth. GSOC exchanged extensive correspondence with Ms Sullivan and her supervisors. Despite this, no reference is made in the Interim Report to anything they said. The only quote from the investigation that is included in the Interim Report is one from an unnamed Garda detective, who makes a vague report of having heard someone shout “rape”, though s/he was “unsure of the exact words used”... as s/he says his/her back was turned. Ms Sullivan told GSOC categorically that neither she nor the other woman used the word “rape” during the arrest (no other protestors were present at the scene of the arrest). However, there is no reference to this in the Interim Report.

A GSOC press release stated on July 28th, 2011: “The Commission is satisfied that the interim report has provided as complete a picture as possible of what happened.”

BLAMING THE VICTIM RATHER THAN THE PERPETRATORS

It is unclear why GSOC has given such prominence in its report to the allegation that one of the women used the word “rape” during the arrest. This appears to be an attempt to shift the blame away from the Garda Sergeant and Gardaí and onto the people whom they discussed raping and who brought the recordings to public attention. This cry of “the women used the word rape first” represents an apparent attempt to mitigate or justify the behaviour of the Gardaí. It is also a disturbing echo of the old notion that a woman is somehow to blame if she is the victim of sexual abuse.

GSOC EXPLOITED A CONFUSION ABOUT AN OLDER FILE DELETED FROM CAMERA

The digital video camera on which Gardaí recorded themselves talking about rape belongs to NUI Maynooth. The camera also contained an older video file, recorded on March 12th, 2011, several weeks prior to the rape comments incident. It was a recording of an academic research interview and was subject to academic confidentiality. In order to protect the confidentiality of the interview subjects (Erris residents talking about their experience of the Corrib Gas project, including policing), the single specific research file was deleted in the presence of a number of NUIM academics, before the university authorities handed the camera over to GSOC. GSOC’s Interim Report exploited this dilemma in a blatant manner.

- Ms Sullivan and her academic supervisors explained to GSOC officers on several occasions in April 2011 that they were under a strict obligation to protect the confidentiality of people she had interviewed for academic research purposes and that, consequently, she could not hand over an earlier recording of an academic interview.
- Bizarrely, GSOC chose to ignore this information in its interim report. Instead, GSOC simply stated that footage had been “deleted and overwritten”. This resulted in some highly misleading media reports, which claimed that part of the crucial recordings from March 31st had been recorded over.
- Between April 8th and 13th 2011, Ms Sullivan and her academic supervisors made several attempts to reach a compromise solution with GSOC. They suggested to GSOC that an independent third party could delete the research interview file in the presence of Ms Sullivan and any technical experts required. GSOC rejected these offers and continued to issue threats of criminal prosecution. GSOC’s Interim Report makes no reference to these offers. Instead, it states: “the significance of these deleted files to the GSOC investigation was not known.”
- The effect of all this was that journalists and the public believed that crucial evidence had been interfered with in some way.

CRIMINAL INVESTIGATION OR NOT?

When GSOC launched its “public interest” inquiry on April 5th into the incident, GSOC briefed journalists that this was not a criminal investigation and that the Gardaí under investigation were unlikely to face criminal charges. However, within days of this, GSOC officers began threatening civilians with criminal prosecution for allegedly not co-operating with their “criminal investigation”.

HOW THE INTERIM REPORT WAS RELEASED

The interim report was never published on GSOC’s website and has not been sent to any of the civilians affected by it, which is their legal right. However, it was passed to journalists and was published on the RTE news website. It was released at a quiet time for news, on July 28th, resulting in extensive news coverage of the allegations contained in it. The fact that it was released without any warning to the two women involved, putting them back in the media spotlight, is typical of the insensitivity that characterised the investigation.

ONE YEAR ON

GSOC has yet to issue a final report about ‘rape’ comments recording in March 2011. To date, no Gardaí have been disciplined in connection with the incident.

GSOC AND THE POLICING OF CORRIB GAS PROTESTS

- When the rape comments recording story broke in early April 2011, GSOC moved swiftly to set up an inquiry. It clearly sought to be seen to be investigating this matter urgently, threatening civilians with criminal charges if they did not co-operate quickly and briefing journalists that these people were not co-operating. In contrast to this, numerous people living close to Shell’s inland refinery in north Mayo are still waiting (years, in some cases) to hear any response from GSOC over complaints submitted about abuse by Gardaí policing the protests there.

GSOC began hearing complaints in May 2007. Between that date and November 2009, 111 complaints were lodged with it in relation to policing of protests against the Corrib Gas project. Of the 111, 78 were deemed admissible, but only seven files were sent to the Director of Public Prosecutions (DPP). The DPP refused to prosecute any of these. Most strikingly, only one file has been sent by GSOC to the Garda Commissioner’s office calling for disciplinary action. To date, no action has been taken. Despite this damning failure, dozens more complaints have been lodged since November 2009, as the GSOC complaints procedure remains the only route open to people who have experienced Garda violence and misconduct. Many Erris residents have stopped making complaints to GSOC, as they now regard it as a waste of time.

In 2007, GSOC sought to do a “policies and practices” investigation into public order aspects of the Corrib protests. Permission was denied by then Justice Minister, Brian Lenihan. The 2010 Front Line Defenders report into Corrib policing argues that this refusal creates “the impression that the State does not want the Garda Síochána held properly to account over the policing of the Corrib dispute”. Front Line Defenders called on GSOC to reapply for permission for this investigation. GSOC has so far failed to act on any of Front Line Defenders’ recommendations.

CONCLUSION

GSOC’s investigation bears all the hallmarks of a media campaign rather than an independent inquiry. Within hours of the story breaking, GSOC announced a public interest investigation. Privately, officers threatened several civilians with criminal prosecution because

these people were faced with a dilemma over an older recording that was subject to academic confidentiality.

GSOC's briefings to journalists and in particular its July 2011 Interim Report served to transform what was a very straightforward case into a confused and complicated one. The Interim Report was highly selective, omitting all information provided by Jerrie Ann Sullivan and her academic supervisors, such as:

- the explanations about why an older file had to be deleted from the camera;
- their offers to GSOC to have the file deleted in the presence of an agreed third party;

The release of the Interim Report in late July 2011 resulted in extensive mainstream media coverage, much of which focused on the false implication that the recording had been “tampered with” and the baseless allegation that the women involved used the word “rape” during their arrest.

The conduct of GSOC in this case raises grave doubts about its independence as a statutory Garda watchdog body in the policing of the Corrib Gas controversy. The lessons of this saga are that any Shell to Sea campaigner who embarrasses An Garda Síochána – as well as leaving themselves open to character attack by anonymous Gardaí via crime correspondents – may also be undermined by, and threatened with prosecution by, the very body tasked with investigating Gardaí.

The document was prepared by Jerrie Ann Sullivan; by seven academics at NUI Maynooth; and by the Dublin Shell to Sea campaign.

FOR MORE INFORMATION CONTACT:

Caoimhe Kerins (Dublin Shell to Sea) 085-8328130

Laurence Cox (NUI Maynooth) 087-9851029

APPENDICES

- A. Account by Jerrie Ann Sullivan with detailed timeline
- B. Letter of Complaint from Jerrie Ann Sullivan to GSOC re Interim Report
- C. Statement by NUI Maynooth academics
- D. Technical notes
- E. Copy of GSOC's Interim Report (July 2011)

APPENDICES

Appendix A

Account by Jerrie Ann Sullivan with timeline

4th April, 2012

Introduction

This document summarises my experience of engaging with the Garda Síochána Ombudsman Commission (GSOC) since it launched its 'Public Interest Investigation' into an incident in which Gardaí inadvertently recorded themselves speaking about raping and deporting two campaigners in Aughose, Co. Mayo on the 31st of March 2011. GSOC requested my voluntary participation in the 'Public Interest Investigation', as I was one of the women spoken about by the Gardaí. The investigation was launched by GSOC in April 2011 and has not yet been concluded. Based on my experiences I believe that GSOC's approach to this incident has been unnecessarily aggressive. The GSOC 'Public Interest Investigation' has to date served only to mislead the media and the public about the facts of the case, which are actually straightforward. I do not believe that the investigation has so far served the public interest. I have stated my concerns to GSOC as part of its own internal inquiry into how its officers have handled the original investigation.

Summary of my experience of the Public Interest Investigation

I engaged with GSOC in the initial days of its Public Interest Investigation in an attempt to negotiate the handing over of the recording in a manner consistent with my ethical obligations as an academic researcher. I was faced with a problem: the digital camera containing the relevant recording also contained older, irrelevant files. One of these was a recording of a research interview from March 12th 2011, which was subject to a formal confidentiality agreement as part of my Masters research. The approach of the Public Interest Investigation was characterised by aggressive phone calls and by threats of criminal charges against campaigners and academics. The first aggressive phone call and threat of criminal charges were made by phone to a campaigner on April 7th, then in person to my solicitor on April 8th and by letter to my solicitor on April 11th. These threats continued over several months in the case of certain academics.

GSOC officers rejected at least four separate attempts made between the 8th and 13th of April to resolve – in a mutually acceptable manner – the difficulty posed by the presence on the camera of one digital research file that was subject to ethical research obligations. The nature of the approach was confirmed by an insensitive interview on April 18th and the subsequent release of a highly misleading 'Interim Report' and press release by GSOC on July 28th.

Under advice from my lecturers at NUI Maynooth, I engaged a solicitor who could make an offer of a mutually acceptable handover arrangement to GSOC. The first solicitor made offers via in-person discussion on April 8th and via correspondence on the 11th of April. Under advice from my lecturers I then instructed a second solicitor, who was more experienced with GSOC, to deal with the threats being made by GSOC and to try to negotiate a mutually acceptable compromise. This second solicitor made numerous attempts via phone calls prior to April 13th. Two university staff wrote to GSOC via these solicitors explaining how the camera needed to be handed over in a manner consistent with my obligations as an academic researcher. On April 13th an offer was made by the university Vice President to arrange for the supervised removal of the one file subject to ethical

research constraints by a neutral third party or under GSOC supervision. GSOC refused all of these offers. GSOC threatened a fellow campaigner (on April 7th over the phone), threatened me (via letter to my solicitor on April 11th) and threatened various academics with criminal charges if we did not hand over the camera immediately. GSOC showed no consideration of the ethical position we were in.

After the handover of the camera I attended the GSOC offices for interview on April 18th, where I was questioned for 4.5 hours by GSOC investigators about the incident. In view of the previous threats and this interview, I became concerned about the approach being taken in the investigation. On the 10th of June I wrote to the GSOC Commissioners explaining my concern that the handling of the Public Interest Investigation was unnecessarily aggressive and insensitive. At GSOC's request I then engaged with them in the process of their internal inquiries into their handling of the case. Internal inquiries by GSOC into the approach taken by the Public Interest Investigation were made over several months and concluded at the end of October 2011. The only findings from this internal inquiry which were shared with me were limited to examining the behaviour of one GSOC officer towards me on the 18th of April.

In the meantime on the 28th of July 2011 an Interim Report about the investigation had been released. In August 2011, I wrote to GSOC detailing six specific concerns and inaccuracies in this Interim Report. I have yet to receive satisfactory responses to these concerns.

Timeline and appendix

Details of the investigative approach and of my engagement with the Public Interest Investigation are provided in the attached timeline written by me based on my correspondence with GSOC. The timeline refers to the statement which I made to GSOC on April 18th and to my correspondence with GSOC, including a letter sent by my solicitor to GSOC on April 11th, explaining my desire to handover the camera promptly and in a manner consistent with my obligations as a researcher. This information was ignored in the drafting of the Interim Report of July 28th. The Appendix shows a letter sent on August 16th outlining my concerns about the GSOC Interim Report.

Current situation

In its recent correspondence GSOC has assured me that each of my concerns will be taken into full consideration in preparation of GSOC's final report into the incident which I understand they expect to publish in the near future. I am awaiting GSOC's final report, which should correct the misinformation spread by its Interim Report and clarify matters for the public.

TIMELINE

- 16th December 2010 – I began research fieldwork in Co. Mayo
- 12th March 2011 – A focus group interview was filmed by me using a university camera
- 31st March 2011 – Another woman and I were arrested and the same camera taken from us by Gardaí. I believe these arrests to have been unlawful and seizure of the camera also unlawful. We were driven to Belmullet Garda station and released without charge.
- 1st April 2011, Friday – I discovered recording of the Garda comments on the camera
- 5th April 2011 – Recording was released to media. Although I was aware that I had 6 months

to lodge a complaint, I called GSOC and made an appointment to attend GSOC offices on Thursday 7th in Dublin and make a complaint in person.

- 6th of April 2011 - GSOC independently launched an investigation 'in the public interest'
- 6th April 2011 – We were warned by journalists that Gardaí had released our names and addresses and took advice that the best thing to end the intense media attention quickly and avoid myself and the other woman being followed and photographed without our consent was to hold a press conference the following morning. It was hoped that once news outlets had one photograph that we could both be left alone and news would refocus on the important issues rather than on our personal lives.
- 7th April 2011 – I asked the campaign spokesperson to cancel the GSOC appointment, as the other woman was unable to attend and I now needed to attend the press conference. She called GSOC and informed them that we needed to postpone the appointment temporarily.
- Friday 8th of April 2011 – A letter from GSOC was delivered to my parents' address in Dublin, where I have not lived in the past five years. As I was in Mayo at the time, I became aware of the letter only some time later. The letter requested an interview and a response within less than one working day, stating that 'if I have not heard from you by Monday the 11th of April in respect of this matter, I will assume that you do not wish to provide this office with the aforementioned statement.'
- Friday 8th of April 2011 – Also on Friday, I visited the office of a solicitor to ask for advice and to leave the camera in his possession for safe keeping. My solicitor then spoke with GSOC's Investigating Officer, Mr Paul Hanna to confirm my willingness to co-operate with any Investigation being carried out by GSOC and my desire to hand over safely the contents of the relevant recorded material relating to the members of An Garda Síochána, the subject matter of the GSOC investigation.
- Friday 8th of April – Later on Friday afternoon GSOC investigators arrived at the offices of my solicitor demanding the camera. My solicitor, having viewed all the files, explained the problem that there was one irrelevant file (filmed weeks earlier, on the 12th of March) on the camera which needed to be protected in line with academic research ethics and he proposed solutions such as the deletion of the irrelevant file by a mutually approved third party. My solicitor again told the GSOC officer of my willingness to co-operate fully with the investigation; we only needed to overcome this ethical requirement with one of the files on the camera. GSOC refused any compromises and the camera could not be handed over. From the 8th to the 13th of April at least four such attempts were made by my solicitors and the university to arrange to handover the camera (including all unrelated digital files) in manner consistent with academic research ethics.
- Sunday 10th April – Course director of my MA course at NUIM wrote to my solicitor to explain the professional obligation of sociological researchers to confidentiality. The letter states that '*from a professional standpoint Ms. Sullivan is under an unambiguous obligation to do whatever she can to protect the confidentiality of any research data which she has collected in the course of her studies. This obligation follows both from the general ethical guidelines applying to research in the National University of Ireland Maynooth and from the ethical guidelines of the Sociological Association of Ireland.*' The letter quotes from these

guidelines which refer to the Data Protection Act 1988. This letter was sent by my solicitor to GSOC.

- Monday 11th April – My solicitor sent a three page letter to GSOC again confirming my willingness to co-operate and recounting the interactions which had taken place on Friday. My research supervisor wrote a second letter explaining my professional and an ethical obligation to abide by the research consent forms which she and I had worked together to draft and which participants in my research had signed. This letter was sent to GSOC by the solicitor. Aware of the urgency of handing over the camera, my lecturers advised me to seek additional legal advice and I managed to engage a second solicitor with more experience in dealing with GSOC.
- Monday 11th April. I received an email from my solicitor with a copy of a letter hand-delivered to him by GSOC. The letter, from GSOC deputy director of operations Ray Leonard, referred to their attempts to seize the camera from the solicitor's office the previous Friday. The letter quotes extensively from section 98 of the Garda Síochána Act 2005 and states that *“any person who delays, obstructs or interferes with a designated officer in the exercise of the powers conferred...under this section is guilty of an offence and is liable on summary conviction to a fine not exceeding 3,000 euro or imprisonment for a term not exceeding 12 months or both.”* The letter also states that the GSOC officer on Friday sought to secure the camera under Section 7 of the Criminal Justice Act 2006 which allows for members of An Garda Síochána and other authorised by law to seize and retain things as evidence. The passage from the act quoted includes reference to the fact that the officer must have *‘reasonable grounds for believing that it is evidence of, or relating to, the commission of an arrestable offence’*. However the ‘reasonable grounds’ for believing that any of the Gardaí privately speaking about rape could have been committing an ‘arrestable offence’ has never been explained. Finally, the letter notes an understanding that my solicitor's approach to the problem may have been on my instructions. Leonard then states: *“That being so, and in the light of an agreed appointment with the Ombudsman Commission which Ms. Sullivan has also failed to attend, the Ombudsman Commission must form the view that your client does not wish to cooperate with the investigation and will report accordingly pursuant to section 103 of the Garda Síochána Act 2005.”*
It should be noted that at this time it has been less than 1 working day since they invited me to participate in the investigation by post. GSOC have not spoken to me in person at all. I did not *‘fail to attend’* but rather voluntarily made the appointment to come in and make a complaint (although I had 6 months to do this) and then two days later asked that it be postponed temporarily as I had to do an urgent press conference on the same morning. In forwarding this letter to me, my solicitors drew my attention to the sentence which includes the words *‘will report accordingly’*. I understood the letter as a threat, that if I did not handover the camera, including the irrelevant academic research file, that GSOC would brief journalists that I was not co-operating with them. This threat was all the more distressing because GSOC had already been told in writing that I was in fact extremely anxious to co-operate, and because I was attempting to co-operate at rapidly increasing personal expense.
- Monday 11th April - The camera and my correspondence were transferred to the new solicitor. This solicitor made numerous attempts by phone and correspondence to make an arrangement for the handover of the camera in a manner consistent with my research obligations. GSOC refused each offer vigorously.

- Wednesday 13th – NUIM Vice President met with academics and with me to discuss how we could arrange for the ethical handover of the camera. The Vice President called GSOC to offer to have the research file deleted by technical experts or another neutral third party. This offer was refused. NUIM staff were assured by a technician at the NUIM Education Research Resource Centre that deleting the one file would not interfere with any other files in any way, and informed that it would be necessary to record over the blank disc space to ensure the deletion was complete.

Seeing no other option, the irrelevant research file was deleted in the presence of a number of academics. Deletion of this single file created one hour of blank recording space on the camera memory. This blank space was then overwritten (recorded over) by leaving the camera running over night. As the camera battery kept dying, the camera had to be regularly recharged and set to record in order to completely record over this blank space. When the blank files were recorded they were deleted also in order to complete the overwriting process.
- Thursday 14th April - 2011 – The camera was handed to university authorities at NUIM at 9am and made available for collection by GSOC.
- Friday the 15th of April - As soon as the camera had been handed over I contacted GSOC to arrange a date to attend the GSOC offices in Dublin to be interviewed to assist in their investigation. I was advised to take a solicitor with me as GSOC could threaten me with criminal charges during the interview. Late on Friday afternoon the main investigator attempted to pressurise me over the phone to attend for interview the next day, Saturday, although I would not be in a position to have a solicitor with me. We arranged the interview for the soonest time that my solicitor would be available: on Monday. The GSOC investigator confirmed that the camera had been sent for forensic examination.
- Sunday 17th April – An article was published in the News of the World entitled ‘Snub puts cop probe at risk’. The article (as well as containing a photo of me inside my home taken without my consent) falsely claimed that the camera had not yet been handed over and claimed that *“an unofficial source at the office of the GSOC revealed: ‘None of the officers concerned can be sanctioned, either by way of the disciplinary regulations of the criminal law, until the investigators have all the evidence at their disposal. Without the tapes the investigation simply can not progress any further. You cannot charge someone with an offence if you do not have any evidence. In the interests of natural justice the tape concerned would also have to be checked in case it had been manipulated in any way.’ ”*
- Monday 18th April – I attended GSOC headquarters for an interview as part of the Public Interest Investigation. I was told that the interview might take an hour or so. In the event I was questioned for more than 4.5 hours by GSOC. I experienced this long interview as aggressive and a number of comments made by the investigator as being offensive and inconsiderate.

I provided a seven page written statement, and a further spoken statement which the GSOC investigator typed at the interview. GSOC have not released the typed transcript of this further statement to me so far and will not do so until their investigation is concluded. During the interview the investigator mentioned that the Gardaí had not yet been interviewed. He told me that two would be interviewed the next day, but that the most vocal person on the recording, Sergeant Gill, was not coming. I understood that I was the first person to be interviewed in the investigation. During the interview I showed the investigator the newspaper article from the previous day. The investigator denied any knowledge of the

person who was the unofficial source, but did not exclude the possibility that someone at GSOC could have briefed the News of the World crime correspondents.

- Tuesday 19th of April – I drafted a letter to Commissioner Dermot Gallagher (one of the three members of Garda Ombudsman Commission), explaining my concerns about the interview the previous day. I showed this letter to colleagues and asked for advice. I chose not to send the letter until I was less upset by my treatment by GSOC as I was quite overwhelmed by the incident and its aftermath by this point. I held on to the letter and used it as a basis for my letters to Commissioner Carmel Foley in June.
- 10th June – I lodged a separate personal complaint to GSOC about the March 31st incident (separate to the Public Interest Investigation). The complaint relied upon the 9-page statement I had already provided to GSOC on April 18th with my additional concerns about the investigative approach. I was told that this complaint would be dealt with by a different case officer alongside the Public Interest Investigation.
- 10th June 2011 – I wrote to the GSOC commissioners to expressive my concern that the approach of the Public Interest Investigation was unnecessarily aggressive and insensitive towards myself and the other woman.
- 15th June 2011 – I received a reply to my letter from Commissioner Carmel Foley promising to ‘thoroughly investigate and review the matters you raised in your letter’.
- 23rd June 2011 – I received a letter from GSOC Director of administration Anthony Duggan referring to my complaint about the aggressive and insensitive approach of the investigation. Mr. Duggan requested that I ‘*indicate that you are prepared to engage fully with GSOC in the necessary arrangements for the investigation of this issue.*’
- 21st July 2011 – I received a letter from Senior Investigative Officer Darren Wright (in charge of the Public Interest Investigation) in relation to my separate complaint made to the Ombudsman about the original incident. The letter stated that ‘*the complaint is admissible under Section 87 of the act and will be investigated in accordance with Section 98 of the act*’.
- 28th July 2011 (afternoon) – An ‘Interim Progress Report’ from the Public Interest Investigation was released to media outlets immediately following its submission to the Minister for Justice in July (GSOC, 28th July 2011). The report did not explain the facts of the case as described by me to GSOC. The Interim Report completely ignored or omitted all of the evidence I had provided in my statements. The report was written in such a way as to give a false impression that I had interfered with the arrest recording which was completely untrue. A press release was simultaneously released by GSOC stating that “*The Commission is satisfied that the Interim Report has provided as complete a picture as possible of what happened at or near Aughoose, Erris, Co Mayo, on March 31st 2011.*”(GSOC, 28 July 2011). This press release was very unsettling as the report contained many inaccuracies, and was highly selective (as outlined my letter of 16th August, in Appendix B)
- 28th July 2011 (evening) – Immediately following the release of the report, inaccurate and misleading statements about the case were broadcast on national television and radio by the State broadcaster, RTÉ [Headline: “*Ombudsman says Mayo arrest tape was altered: The*

Garda Ombudsman Commission has found that parts of a recording of the arrest of two women at an anti-Corrib gas pipeline protest in Co Mayo were deleted and overwritten.”] Although I am an interested party to the Public Interest Investigation and legally entitled to be kept up to date with its progress, I received nothing from GSOC prior to or after the release of this interim report. I heard about the report instead over RTÉ radio and television. To see the facts of the case falsely represented in the national media was deeply upsetting. These news reports were subsequently found by the Broadcasting Authority of Ireland to be “inaccurate” and to have caused me undue distress and harm.

- 1st of August 2011. I lodged a complaint with RTE about their inaccurate and misleading news reports of the 28th of July.
- 2nd August 2011. The Sunday Independent wrote a letter to me via the Office of the Press Ombudsman attempting to use GSOC’s Interim Report to justify misleading accusations made about me in an article published in the newspaper on June 19th [**Sunday Independent article “‘Rape’ claims were hurled at gardai by protestors”**] I had previously lodged a complaint about this inaccurate article to the Press Ombudsman of Ireland. The Press Council of Ireland in October 2011 upheld a decision by the Press Ombudsman that the article published in the Sunday Independent on June 19th 2011 was inaccurate and ‘significantly misleading’. Of great concern to me was that the GSOC Interim Report was used in an attempt to justify false and damaging accusations against me, which the newspaper was later forced to retract as they were ‘significantly misleading’. Meanwhile the report itself has not been retracted or corrected.
- 16th August 2011 - I replied to Mr. Duggan and the Commissioner to confirm my willingness to engage fully in GSOCs internal enquiries and to explain very explicitly that this was not a problem with one investigator who had behaved insensitively during my interview, but a wider problem encompassing the whole investigative approach. So far the approach had included, apart from my interview, aggressive phone calls made to campaigners, unreasonably short time limits to respond to letters (e.g. one working day) and threats of fines and imprisonment made to me, my solicitor, other campaigners and academics. I explained that the misleading nature of the Interim Report gave me further concerns about the investigative approach, but that for clarity I would write to the Commissioners separately about my specific concerns.
- 16th August 2011 – I wrote a letter to the GSOC Commissioners and the investigators working on the Public Interest Investigation outlining six specific concerns with inaccuracies and misleading omissions in the Interim Report. This letter is attached as an appendix to this account. I said that I would appreciate a formal response to each of the six concerns. The concerns raised in this letter have not been dealt with by GSOC in their subsequent correspondence. Nevertheless GSOC have written to me stating that they consider the matter closed.
- 29th August 2011 – I received notice from a GSOC personnel officer that he would be investigating the conduct of a particular GSOC investigator who interviewed me in April.
- 5th September 2011 – Having received no response to my letter outlining my six concerns about the Interim Report, I wrote to Director of Operations Anthony Duggan and Commissioner Foley again. I explained again that I wished for a response to each concern

as the matter is of deep personal concern to me and that failure to clarify the GSOC position with regard to the inaccuracies in the report was continuing to cause me distress. I also again clarified that I was concerned about the whole investigative approach rather than about the behaviour of any particular GSOC officer.

- 6th of September 2011 – I received a short reply from Deputy Director of Investigations Ray Leonard noting my letters for the 16th of August and 5th of September, stating that *‘As the concerns and queries raised in your letter relate to both an ongoing investigation by the Commission and to the Interim Report provided to Minister, I am not in a position to provide you with specific responses at this point.’* but that final report would be produced on completion of the investigation.
- 7th September 2011 – I received a letter from Director of Administration Anthony Duggan clarifying internal staff protocol for their internal inquiries into the behaviour of one of their investigators towards me.
- 8th September 2011 – I received a letter from Senior Investigator Jon Leeman asking to meet and an interview in relation to the behaviour of one of GSOC’s officers towards me. I replied to indicate my willingness to meet.
- 3rd October 2011 – GSOC investigator Jon Leeman interviewed me for approximately one hour about my experience with the organisation. A statement was written down by a GSOC officer while he asked me questions. As such the text is not in my own writing and reflects questions I was being asked by the investigator during the interview. In this statement I explained that my experience of the whole investigation by GSOC is that it was aggressive and insensitive. The approach seemed to be actively attacking us, and resulted in the publication of an extremely misleading report which presented extremely selective and misleading minor details of the case, thus misleading journalists, the media and the public, undermining my credibility and the credibility of the other woman. I subsequently verified a transcript of the verbal statement which I provided to GSOC about their approach to the Public Interest Investigation into the incident. The transcript of this statement may be made available, however all references to the personal details of the other woman affected by this incident may not be made public in order to continue to protect her privacy and anonymity.
- 10th October 2011 – I replied to Deputy Director of Investigations Ray Leonard reiterating that my six specific concerns stated in my letter of the 16th of August did not relate to *‘both an ongoing investigation by the Commission and to the Interim Report’* but rather solely to the Interim Report. I also noted that as an interested party to the Public Interest Investigation that I am legally entitled to be kept informed of the progress and results of the investigation. I also noted that in the Interim Report, I and the other woman were falsely accused of saying the word ‘rape’ during our arrests. I reiterated explicitly that this was untrue, neither I nor the other woman ever said the word rape at any stage, and that I expected the final report to reflect this.
- 18th October 2011 - I received a reply from Mr. Ray Leonard stating that the Ombudsman Commission acknowledges that I am a person with sufficient interest in the matter under section 103 to be kept informed of the progress and results of the investigation. Mr Leonard also stated that *‘In concluding the investigation the Ombudsman Commission will take into account the six issues you have listed from the Interim Report as being of concern to you.’*

Where necessary any errors identified will be recognised via the ongoing investigation and corrected. In that context I note your categorical denial that you used the word 'rape' at any stage.' Mr. Leonard proceeded to state, *'I am not sure you can make that assertion on behalf another party but I should be glad to hear from [the other woman] should he wish to state that to be the case.'* This sentence was strange as the GSOC officers involved were provided with a statement from the other woman via her solicitor in April. Finally Mr. Leonard stated that the Commission *'has not considered yet whether or not it will publish all or any of its findings.'*

- October 27th 2011 – GSOC wrote to me informing me of their views on my complaint about the original incident. The letter stated that it is the view of the Commission that excessive force was not used against me during my arrest. GSOC did not clarify whether the arrest was lawful or not. The letter also states that the Commission is *'satisfied, as far as possible, that the information relied on by journalists in generating news media around you and your arrest was not obtained from Garda sources but from other sources (including open-source material)'* but does not specify where else the details of my parents' address (which only the Gardaí in Belmullet Garda station had on record as my home address) could have come from. This address, then used by journalists, was not publicly available, whereas my actual home address, located elsewhere, was listed under my name in the Eircom phonebook and online. In relation to the rape comments, GSOC found *'there is insufficient evidence of any criminal offence having been committed'* but that *'there may be a disciplinary case to answer in respect of two members of the Garda Síochána involved'* the final decision on which would rest with the Garda Commissioner. The basis for any suspicion of any criminal offence by any Garda involved has still not been clarified by GSOC.
- November 2011– Following their internal inquiries, GSOC wrote to me noting their findings. GSOC found that on April 18th a GSOC investigator made comments to me regarding the other woman, which were *'ill-advised'*. However, GSOC confined their internal review to the 18th of April only and have not commented on the investigative approach overall. GSOC has not offered any further explanation of the other aspects of the investigative approach, such as the threats issued to me and to various academics. GSOC now considers this matter closed.
- 1st December 2011 – I received a letter from the Broadcasting Authority of Ireland stating that my complaint against RTE had been upheld. RTE's reporting, on 28th July 2011, of GSOC's Interim Report was ruled to be *'harmful', 'inaccurate' and 'unfair'*. However, RTÉ did not remove these reports from its website. As of April 3rd, 2012, both the inaccurate online news reports and video files of the inaccurate TV news reports were still viewable on the RTÉ website.
- 7th December 2011 – RTE aired a retraction of their inaccurate and harmful reporting about the Interim Report at 6pm and 9pm on RTE 1 television. GSOC themselves have so far not offered any retraction, clarification or apology for their misleading and inaccurate report.
- 4th April 2012 – At the time of writing, I am awaiting the GSOC final report into the incident.

– End of Jerrie Ann Sullivan's timeline –

Appendix B

Letter of Complaint from Jerrie Ann Sullivan to GSOC re Interim Report

Letter sent on August 16th 2011, outlining my concerns about the GSOC Interim Report

Ms. Jerrie Ann Sullivan
Barr na Coilleadh
Pullathomas
Ballina
Co. Mayo
16.8.11

Secretariat
Garda Ombudsman Commission
150 Upper Abbey St
Dublin 1

F.A.O. Mr. Paul Hanna, Mr. Darren Wright, Mr. Anthony Duggan and Commissioner
Carmel Foley

Dear Mr. Hanna, Mr. Wright, Mr. Duggan and Commissioner Foley,
I am writing to you to notify you of a number of worrying features of the GSOC Interim report.

1. In paragraph 7 the Interim Report states that “The second woman has failed to cooperate with the investigation thus far”. I am aware that the second woman has in fact co-operated with GSOC through her solicitor. She has invested significant time and energy into preparing a detailed complaint, which reflects the seriousness of the incident. The deadline for submission of this complaint is September 2011. The GSOC investigators involved in this case were made repeatedly aware in April that [...] and that she would be submitting her complaint in due course. Considering that GSOC investigators involved are aware of this, the Interim Report represents an utterly unacceptable attack on the other woman.

2. In paragraph 8 the Interim report raises the allegation by a detective Garda that I or the other woman mentioned the word rape during our arrests. This suggestion by a detective Garda that he heard a protestor use the word “rape” is untrue. While the detective Gardaí admits that he is “not sure of the exact words used”, GSOC opted to publish this unfounded accusation in the report rather than any other quote from the entire investigation. I feel that this is a clear attempt to undermine the credibility of myself and the other woman. The full interaction between myself, the other woman and the Gardaí on the road is in the recording and has been made available to GSOC and to the public. All comments made by myself and by the other woman during their arrest are clear and audible on the recording.

3. In paragraph 10 the report claims that ‘high winds have distorted the sound’ on the recording. However, as is obvious from listening to the full recording, there is no sound distortion. Sunday Independent Deputy Editor Mr. Kealy, in a submission to the Press Ombudsman, has written that this paragraph, paragraph 10, refers to a second recording. Presumably this refers to a YouTube clip (link: http://www.youtube.com/watch?v=GLW_qKZTtc8) of a completely different protest which took place in April, involving a different location, different Gardaí and different women, and different weather conditions. This 18 second YouTube clip does feature high winds and sound distortion and alleges to be of the same incident despite clearly being from a different incident. It appears to me that this YouTube clip is the recording referred to in the Interim report which was used to try to corroborate the false allegations from the detective Garda quoted. The inclusion of this highly dubious quote led to media outlets repeating the false allegation creating public confusion. It is difficult to understand how the two recordings could be mistaken as being the same day given the number of differences between two incidences, and presumably the digital forensics could determine the date of recording.

4. In paragraph 11 the report mentions that disciplinary issues may only arise for two Gardaí. From the numerous times which I have listened to the recording I am aware that three separate voices make inappropriate sexual comments about me and the other woman. The grounds for excusing the third Garda for making these comments, but not the other two Gardaí, is unclear from the Interim report.

5. In relation to the points highlighted about the video camera, I am worried that the full details of the investigative process are excluded from the report. It appears that despite ample warning of my ethical predicament with the university research file on the camera provided by my solicitors, despite my preparation of a 9 page statement to GSOC, and despite my dedication of almost five hours of my time to provide an additional statement in person, the Interim report appears to completely ignore the evidence which I submitted. Despite GSOC full awareness of the circumstances, the report does not mention the reason why one file had to be deleted, and conversely seeks to present an unclear, misleading picture of events to the media. The report states that 'the significance of these deleted files to the investigation was not known' implying that the Commission was not provided with information about the files. In fact ample information was provided, and a whole negotiation process occurred before the deletion in which my solicitor, and academics from NUIM asked GSOC repeatedly for help in overcoming the ethical problem of handing over the one research file (recorded on March 12th, irrelevant to the case) which was on the camera. It would have been accurate and clear instead to state that the irrelevance of the deleted file was explained by the researcher, but this could not be confirmed as the single (not six) file was deleted overwritten in the presence of a number of academics in order to protect research confidentiality.

6. The use of the word "recovered" in paragraph 2, page 3, implies that the file was difficult to access on the camera. The file from the day was 100% intact on the camera as confirmed by your digital forensics. This created significant confusion in the public mind and fueled a false story that the 'rape tape' file from the day in question had been tampered with when it had not.

I am deeply concerned that this report, or the information upon which this report is based, was selectively chosen from the full facts of the investigation to deliberately confuse the public about the facts of the case. It appears to me that the report attempts to undermine the credibility of the victims of this case. This has certainly been the result when taking into account the comments made by the Minister for Justice Allen Shatter and media coverage in reaction to it.

It was deeply upsetting for me to hear of the publication of this report from the media. I would appreciate being informed of any further developments in my case rather than having to hear about it hours later on the radio.

Given misrepresentation of the investigation apparent to me in this quite straightforward case, and the context of a long record of complaints from local residents without disciplinary action resulting for any members of An Garda Síochána, I am now gravely worried about the viability of GSOC as an oversight body for policing of the dispute in North West Mayo. Local residents and campaigners

continue to face unacceptable Garda behaviour in North West Mayo, sometimes on a daily basis.

If there is to be an absence of credible oversight, I continue to worry for the safety of all those campaigning and living in this area. I would appreciate a formal response to each of these concerns.

Yours sincerely,

Jerrie Ann Sullivan

i) *Words deleted to protect the privacy of the second woman indicated by '...'*

Appendix C

Statement by NUIM academics on the Rossport rape recordings

Much misleading information has been published about the incident near Aughose on March 31st 2011, when Gardaí were recorded joking about raping and deporting protestors. It is not clear to us what proportion of the mistakes have been a result of limited information (as when the Minister for Justice commented on the Garda Ombudsman's interim report before reading it), what proportion have been a result of failures of comprehension (as when the Ombudsman Commission failed to understand how electronic files are recorded), and what proportion has been deliberate.

As academics in the Depts. of Sociology and Adult & Community Education who have supervised and taught Ms Jerrie Ann Sullivan, we have a duty of accuracy and therefore wish to make the following statement.

1. Despite what has been repeatedly assumed, the Garda Ombudsman Commission investigation into the event is an individual initiative taken by the commissioners, following a call for an inquiry by a TD, rather than an investigation into a complaint by either of the women involved. In common with many people involved in the Corrib Gas issue, they have little confidence in the impartiality of the Ombudsman, a view grounded in the Ombudsman's poor record on complaints about policing in the area. For this reason, Ms Jerrie Ann Sullivan and her supporters have called instead for a genuinely independent and international inquiry into the whole handling of policing in Erris.
2. From the outset the Ombudsman Commission has treated Ms Sullivan in particular as the perpetrator rather than the victim in this situation. She has been subjected to lengthy and aggressive questioning, on one case up to four and a half hours, and forced to take on substantial legal costs as a result. This pattern has been extended to others involved, not only academics who have been summoned to interview as witnesses but even a union representative whose sole involvement in the case was to be present at the handover of the camera and who was nevertheless questioned for an hour and a half.
3. Two members of NUIM staff were identified, one verbally and one in writing, as "suspects"; they, Ms Sullivan and other members of staff were given written warnings of possible criminal prosecutions for "tampering with evidence". We immediately queried this as this would only have been conceivable if the actions of the Gardaí in question had constituted criminal acts, but received no adequate response. It was only following Lorna Siggins' *Irish Times* article of October 31st 2011 that the Ombudsman informed *one* of the two academics identified as "suspects" that there would be no prosecution. Most recently, the Broadcasting Authority of Ireland has ruled that RTÉ claims that the recording had been "tampered with" were misleading and must be corrected in broadcastings before the 6.01 and 9 o'clock news on December 7th 2011.
4. The video camera on which the Garda comments were recorded was an NUI Maynooth one, used by Ms Sullivan for postgraduate research. It thus naturally contained her research material, which consisted among other things of a lengthy group interview. As is normal for academic research, this interview was given on condition of confidentiality, a condition required by NUI Maynooth's own research ethics principles, the ethical code of the Sociological Association of Ireland and agreements with those interviewed. There can

be no doubt that Ms Sullivan thus had a professional duty to safeguard the confidentiality of this material. This duty is substantially similar to journalists' responsibility to protect their sources, although to date this seems not to have been recognised in reporting on the issue.

5. Despite newspaper uses of the phrase "rape tape", this camera records video onto a hard disk, as separate date-stamped files. Our own technical experts verified the fact, widely known to most ordinary people, that one such file can be deleted without compromising the integrity of other such files. The file deleted had been recorded some weeks prior to the incident of the rape remarks. We are thus at a loss to understand the Ombudsman's claim that this file constitutes evidence in any way.

6. An Ombudsman investigator stated to one of the NUIM academics questioned that the PSNI's technical services, to whom the camera was sent, had succeeded in restoring the data. If this is true, it is clear that no substantial material relevant to the Garda remarks on rape was discovered - and underlines the irrelevance of the research data to the investigation at hand.

7. Repeated attempts were made by academics involved to negotiate the deletion of this confidential research data by a mutually acceptable third party in the presence of a representative of the Ombudsman. These were rejected out of hand, with no justification offered. It is unclear to us whether this refusal was due to a failure to understand the workings of everyday electronic equipment or for some other reason.

8. Throughout this process, the Ombudsman Commission has shown no ability to understand either the researcher's duty of confidentiality or the workings of modern video cameras. Their attitude to the victims has been consistently hostile, recalling past treatment of the victims of sexual violence. Similarly, their treatment of NUIM academics has consisted of hostile questioning, demands for instant responses and threats of legal action. It is not clear what explains the Ombudsman's behaviour in this respect.

In conclusion, we wish to reiterate our support for Ms Sullivan. She is a highly courageous and intelligent individual who has stood up for her ethical duty as a researcher as well as her principles as a citizen at substantial personal cost.

Signed

Dr Bríd Connolly, Dept. of Adult and Community Education, NUI Maynooth

Dr Laurence Cox, Dept. of Sociology, NUI Maynooth

Mr Tony Cunningham, Dept. of Sociology, NUI Maynooth

Mr Fergal Finnegan, Dept. of Adult and Community Education, NUI Maynooth

Dr Bernie Grummell, Dept. of Adult and Community Education, NUI Maynooth

Dr Michael Murray, Dept. of Adult and Community Education, NUI Maynooth

Dr Theresa O'Keefe, Dept. of Sociology, NUI Maynooth

Contact:

Dr Laurence Cox – 087-9851029

Appendix D

TECHNICAL NOTES

Corrib Garda rape comments recording of March 31st, 2011 and the Garda Ombudsman investigation into incident

Prepared by Dublin Shell to Sea

The digital video camera on which a Garda sergeant and Gardaí recorded themselves talking about raping a prisoner also contained recordings – made several weeks earlier – of confidential academic research interviews. These older files were deleted before the camera was handed to the Garda Ombudsman (GSOC). GSOC's Interim Report (July 2011) of its investigation treats the technical information about the deletion of these unrelated files in a deliberately misleading manner. This resulted in journalists mis-reporting the facts of the case. In order to address this, Dublin Shell to Sea is providing technical notes about file deletions and about what appears to have happened in this case.

1. GSOC sent the digital video camera to Forensic Science Northern Ireland (FSNI) to attempt recovery of deleted files. Presumably, FSNI has a high level of technical expertise: even if GSOC was unaware of the technical details of file deletion described below, the report they received from the FSNI lab would have provided this information as background.
2. GSOC's Interim Report says the video recording of the incident on March 31st was "recovered". The use of the term "recovered" is highly misleading, since the two video files created on March 31st had not been deleted and so could be viewed by anyone with the camera, without the need for any "recovery" procedure.
3. When a file is "deleted" from a drive, all that happens is that the information about the location of the data sectors on the drive that make up that file is removed. This allows them to be overwritten by a subsequent recording. Such a deletion is easily reversed, so if a secure deletion is required the deletion procedure must not stop at that point. The cheapest procedure for secure deletion is called "wiping" or "shredding": this involves the data sectors being overwritten with new information. For instance, the United States Department of Defense considers overwriting acceptable for clearing magnetic media within the same security area/zone, but not as a sanitisation method. In the case of a video camera, an acceptable method is to delete the file, then make another video recording to fill the hard drive with new data and then delete that new file that has been created.
4. Our understanding is that in order to overwrite the single file of the unrelated confidential interview that had been made some weeks prior to the March 31st incident, the six additional files referred to in the GSOC report were created. There were six files rather than a single file because of a faulty camera battery, which meant the camera repeatedly shut off after short periods of recording, requiring the battery to be re-charged and recording started again on six successive occasions in order to overwrite the sectors occupied by the original confidential file that had been deleted.

ENDS

Appendix E

GSOC's Interim Report (July 2011)

Issued by GSOC to Dept of Justice, which released it to RTÉ.

Published on RTÉ website on July 28th, 2011

**REPORT ON ALLEGED COMMENTS BY GARDA MEMBERS ON MARCH 31ST 2011
RELATING TO TWO FEMALE PROTESTORS ARRESTED AT A "SHELL TO SEA"
DEMONSTRATION AT OR NEAR AUGHOOS, ERRIS, CO MAYO ON MARCH 31ST 2011.**

This report is provided to the Minister by the Garda Síochána Ombudsman Commission (GSOC) in accordance with Section 80(5) of the Garda Síochána Act 2005. The report is based on an interim progress report presented to the Commissioners by a GSOC Designated Officer and approved by the Director of Operations.

The Commission wishes to report the following in respect of the alleged comments made by Garda members following the arrest of two women at a "Shell to Sea" demonstration at or near Aughoos, Erris, Co Mayo on March 31st 2011:

1. The investigation has found no evidence of a criminal offence having been committed by any of the gardaí in question.
2. The alleged comments were made during a conversation between five members of the Garda Síochána who were on duty at the time and located in a marked Garda jeep. The five members had been involved in the arrest of the two women. This conversation was captured on a pocket camcorder device that had been seized from one of the women by gardaí during their arrest, placed in a pocket by a Garda member and unknowingly left in "record" mode.
3. It had been alleged that Garda members can be heard joking on the recording about raping the females if they refused to give their name and address, on deporting them from Ireland (as one was believed to be an American Citizen), on enlisting the support of the Garda National Immigration Bureau to harass them and other comments of an inappropriate nature. Whilst the audio on the recording is of poor quality during some sections of this conversation, an approximate transcript of the conversation has been prepared and supports these allegations.
4. At no stage during this incident were either of the women involved threatened personally with being raped, deported or any other form of threat by gardaí. They did not hear the conversation at the time as it took place inside a Garda jeep where the only persons present were the five Members of the Garda Síochána. The two females concerned only became aware of the alleged conversation *after* the event, following their release and on reviewing the content of the camcorder that had been returned to them by gardaí.

5. All members of the Garda Síochána involved in the incident have been formally interviewed by GSOC.
6. One of the women arrested in the incident attended at GSOC for interview. She has lodged a separate complaint with GSOC concerning the conduct of the gardaí. Aspects of this complaint are being investigated.
7. The second woman has failed to cooperate with the GSOC investigation thus far. Her solicitor has advised that she is now employed overseas and will not be returning to Ireland for approximately one year. She has not made a complaint to GSOC about this incident.
8. During the course of the investigation with Garda members, it was suggested that another Garda member may have overheard one of the females using the word "rape" during the course of their arrest and prior to the word being used by any Garda member.
9. This line of enquiry was pursued and a detective garda who was present when the arrests took place has provided GSOC with a statement as follows:

"As the prisoners were being brought to the cars to transport them to the station, one of them kept shouting something like 'she is not safe on her own with ye' or 'she is not safe with ye' and I also heard her shout 'she could be raped by ye'. I am not sure of the exact words used and as I was walking back towards the mini bus, I cannot say which protester said this. Both of them were shouting. I did mention this to some of my colleagues after the controversial tapes were released to the media."
10. The arrests were video recorded at the time, and the footage was reviewed by GSOC in light of the above statement. It has not been possible to corroborate this statement from the recording. High winds have distorted the sound and although the recording has been analysed in a well-equipped, professionally operated studio, it is indistinct.
11. Disciplinary issues may arise in the case of two Garda members, and consideration is being given on how best to take these forward. There is no evidence of any breach of discipline by the other three gardaí.

The Commission also wishes to highlight the following points in respect of the pocket camcorder device referred to in paragraph 2 above.

1. GSOC officers were unable to take possession of this recording device until the 14th April 2011 at 14:40hrs. On handover to GSOC, the device was submitted to the Forensic Science Service for Northern Ireland (FSNI) for forensic retrieval of all files including any

items where an attempt had been made to delete them (as the significance of these deleted files to the GSOC investigation was not known).

2. Footage of the original incident giving rise to the GSOC investigation was recovered from the device along with a number of files that had been deleted and overwritten. Despite extensive efforts by FSNI, these overwritten files were not capable of being retrieved in a viewable format due to the damage caused to the files by the overwriting process. The FSNI has reported that 6 files were deleted from the device between 21:06hrs on the 13th April 2011 and 08:02hrs on the 14th April 2011. It would appear from the FSNI report that the deletion of files from the device took place throughout the night of the 13th – 14th April 2011 with other files being created and overwritten at 02:45hrs, 05:03hrs, 06:41hrs and 07:14hrs. Whilst the FSNI has noted that the clock on the device was 2hrs 34mins slow, it can nonetheless be seen that a sequence of deletions from the device had taken place shortly prior to GSOC taking possession of the device.
3. Regrettably, the level of co-operation provided to the investigation by a number of persons, including some individuals associated through academic links with the two women, has been unsatisfactory.
4. It is the Commission's view that issues arising in relation to obstruction of GSOC officers will require further consideration.