

ційного побачення із затриманою особою протягом години з моменту видачі йому доручення для надання безоплатної вторинної правової допомоги, а у виняткових випадках — не пізніше ніж протягом шести годин з моменту видачі йому доручення.

З огляду на викладене вище та враховуючи положення ст.ст. 3 та 42 КПК України, можна дійти висновку, що участь захисника у кримінальному провадженні щодо особи, підозрюваної у вчиненні особливо тяжкого злочину, у випадку її затримання в порядку ст. 208 КПК України є обов'язковою з моменту складання протоколу затримання як процесуальної дії, вчинюваної у зв'язку із вчиненням діяння, передбаченого законом України про кримінальну відповідальність. Водночас практична реалізація забезпечення права затримуваної особи на захист у цьому випадку потребує узгодження положень чинного кримінального процесуального законодавства, їх вдосконалення з урахуванням необхідності гармонійного поєднання гарантованих національним та міжнародним правом права на свободу та особисту недоторканність, права на захист та принципу розумності строків кримінального провадження.

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POLICE OVERSIGHT IN IRELAND

Ireland became independent from the British Empire in 1922. *But* Peace Treaty created Republic of Ireland & Northern Ireland. 1969–1998 was a period of political violence in Northern Ireland. Peace Treaty, adopted in 1998, reformed the Northern Ireland Police Force (RUC) aimed at equal Catholic/Irish & Protestant/British representation and ended collusion between Protestant/British police and terrorists. New police force (PSNI) and Office of Police Ombudsman of Northern Ireland (OPONI) were also created.

In 2007 Republic of Ireland created GSOC — Independent body to investigate serious misconduct by police (modelled on OPONI). Irish Police are called *An Garda Siochána* (AGS — «Guardians of the Peace») — in Irish the official language of Ireland. GSOC created by The Garda Siochána Law 2005 as amended. GSOC only investigates complaints against Police of all ranks. It can investigate complaints from public of serious misconduct (criminal & disciplinary) against police. It must investigate fatalities and

serious harm, serious misconduct incidents referred by Police and/or MoJ. Also this body can investigate «*any matter in the public interest*».

GSOC has a Chair (Criminal Judge) and two fellow Commissioners. It also includes Casework, Investigations, Secretariat, Legal and Support Units, special «Whistleblowers» Unit, but there are no operatives.

Police conduct disciplinary proceedings — GSOC just investigates. In 2018 GSOC had approx. 100 staff, 1 HQ & 2 regional offices. In 2018 2,000 (approx.) complaints containing 3,000 (approx.) allegations of misconduct. Complaints must be admissible — statutory and case law test. If admissible, is it discipline or criminal? If minor discipline — AGS/informal resolution. If serious discipline/criminal assigned to investigation team with full police powers (if criminal). All investigations are subject to the general criminal law of Ireland.

GSOC just one of three bodies responsible for Police Oversight in Ireland. The next body is Garda Síochána Inspectorate, which deals with reports on Police capabilities & use of resources. Police Authority deals with senior appointments & public interface — Board of directors and CEO (Commissioner).

All three bodies are under the nominal supervision of Ministry of Justice but in practice only budget is controlled — «hands off approach». All three plan to become completely independent.

Police also have Internal Affairs and Human Resource Management Unit. GSOC sends completed investigation files to the DPP (PGO). DPP lawyers present the case in Court. GSOC investigators are witnesses for the prosecution side. In 2018 GSOC sent 13 files to the DPP (PGO) but only two prosecutions directed (because of many reasons, including, «*likelihood of conviction*» and «*in the public interest*» test). Plus GSOC sends *all* files where Article 2 of the ECvHR engages in order to comply with requirement of an independent *and* effective investigation *McCann v United Kingdom* (1995). GSOC has MoU with DPP (PGO) relating to parallel investigations. Also MoU with AGS for ongoing investigations.

In 2011 man walks into police station in Dublin & alleges he has just been raped by a serving police officer in his home. P/Officer off-duty but «*conduct likely to bring into dis-repute*». Complaint of «*serious harm*» — law says Police must refer to GSOC who must investigate. GSOC investigators attend house, seize/examine evidence and interview suspect. GSOC investigators discover sufficient evidence of sexual activity *but* consensual. But «victim» asks GSOC investigators to look at police officer's computer — alleges it contains sexual imagery involving children. GSOC does not have technical expertise to forensically examine a computer so AGS does this based on MoU between organizations. GSOC completes investigation, sends file to DPP (PGO), Police Officer PNG but...? Independence, independence, independence! AGS allowed too much influence in the legisla-

tion especially IR. Clear admissibility/investigative criteria — unless allegation requires independent investigation police should do it.

The more public trust there is in the police the more they can be trusted to investigate misconduct. Over 75% in Ireland but still need GSOC for serious investigations. New law will reflect this. Develop good relations with AGS/DPP (PGO)/MoJ from the beginning. In theory we all want the same thing — police following the law!

PRAVO is a Commission project however, funds are spent by UNOPS in consultation with EUAM with total Budget of USD 847,205 for SBI is divided into three areas:

1. Strategic Planning
2. Investigative Operations
3. ICT Development

Initially most funds were targeted for 1 and 2 but SBI convinced EUDEL/EUAM/UNOPS that spending should be re-focused on **technical capacities** especially ICT. EUAM assisting with draft of the SBI ICT strategy.

EUAM has a much smaller budget with many experts competing for funding to support their projects.

1. Series of Trainings on Organized Crime Investigation, Cyber Crime and Witness Protection (March 2019).

2. Possible Project to develop SBI's online Complaint Receipt/Registration System with international expert to carry out initial assessment under the TAIEX framework.

3. Advocacy support in VR (e.g. Law 9395d).

4. Other training requests (Internal Affairs Unit).