



AN TÚDARÁS PÓILÍNEACHTA
POLICING AUTHORITY

Meeting of the Joint Oireachtas Committee on Justice to discuss the General Scheme of the
Garda Síochána (Powers) Bill - 8 December 2021

Opening Statement by Mr. Bob Collins, Chairperson of the Policing Authority

Chairperson,

Thank you for the opportunity to make a brief opening statement regarding the Policing Authority's views on the General Scheme of the Garda Síochána (Powers) Bill.

This Bill is a once-in-a-generation opportunity to carry out a more comprehensive and public assessment of key powers exercised by the Garda Síochána. It is also an opportunity to reflect on these powers from a variety of perspectives, ever mindful that the powers of arrest, detention, search and seizure can as easily infringe and breach as they can protect and vindicate the rights of persons.

The Authority welcomes the fact that many of the observations it provided previously have found expression in the latest version of the Bill.

I want to emphasise five areas of concern that are relevant and significant from a policing oversight perspective.

1. Search Warrant in Urgent Circumstances

Head 21, which enables a Garda member of Superintendent rank and above to issue a search warrant in urgent circumstances, is of considerable concern to the Authority. The recommendation of the Law Reform Commission was clear that warrants should be issued only by the Courts. It is difficult to envisage circumstances where judicial approval of a warrant could not be urgently obtained electronically. This provision should not be retained.

If it is to be retained, its exceptional character should be matched by the seniority of the approving Garda member who should be an officer not below the rank of Chief Superintendent. The Garda Síochána should also be required to report to the Authority quarterly, by Division, on the number of warrants issued in this manner.

2. Custody — Member in Charge

All persons detained in police custody, in whatever form, are, by definition, vulnerable and the Garda Síochána have a duty to protect them. This places a great deal of responsibility on the Custody Officer (Member in Charge).

Therefore the Authority believes the position of Custody Officer set out in Head 35 should ideally be restricted to an officer not below a specified rank and, in all circumstances to a member with a



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specified number of years of experience, and with the necessary training. Relevant Garda Members should be held accountable for performing their function of protecting the rights of each detainee.

3. Custody — Legal Representation

The Authority is very concerned by Head 42, which allows for the exclusion of legal representation based on a subjective evaluation of possible future behaviour.¹ Nothing should undermine the right to legal assistance which must be practical, effective and unfettered. These provisions should be removed from the Head.

In Head 43, the right to waive legal representation should not be available to anyone under the age of eighteen.

4. Arrest without Warrant

While not covered in our written submission to the Committee, the Authority expresses its strong view that the extension of arrest without warrant represents an excessive extension of police powers. No adequate justification is offered for such a radical change.

5. Codes of Practice

The Authority considers that Codes of Practice should be statutory instruments and such amendments as are required to reflect this throughout the Bill should be made. Further, any amendment or revocation of a Code should attract the same consultation process as their initial introduction.

Thank you.

Bob Collins,

Policing Authority Chairperson

¹ “where his or her presence would be unduly disruptive or prejudice an investigation”.