



AN TÚDARÁS PÓILÍNEACHTA
POLICING AUTHORITY

Policing Performance by the Garda Síochána in relation to COVID-19 Regulations

**Report on the exercising of powers under the Health Act 1947
(Section 31 – Temporary Restrictions) (Covid-19) Regulations 2020**

25 June 2020

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Chairperson's Foreword

In the foreword to the Authority's Annual Report for 2019, I wrote, in reference to the emerging health emergency that 'Nothing escapes its context'. How very much more grimly has the truth of that observation been revealed against the background of the killing of Detective Garda Colm Horkan while in the course of his duties a week ago.

The killing of a Garda is particularly repellent. It strikes a blow at something very fundamental in community life in Ireland. It evoked an instant outpouring of horror and sympathy across the entire country. Because we enjoy the privilege, not available everywhere, of living in a country where policing is a service to the people, we recognise an attack on a Garda as an attack on something very fundamental in our democracy. The women and men of the Garda Síochána put themselves in the bearna bhaoil so that the rest of the community can be safe. Garda Horkan gave his life in that service. Suaimhneas siorraí go raibh aige.

The period of the health emergency, even from before its formal recognition as such, has been a time of exceptional service and community engagement by the Garda Síochána. It has reflected, and will shape, the depth and quality of the relationship between Garda and community that has been a mark of the identity of the policing service in Ireland. The response from the public has been generous, appreciative and welcoming.

This series of reports to the Minister and to the public has served a number of purposes and has had a number of beneficial effects. It has offered a clear overview of the number of enforcement actions and uses of force reported to the Authority by the Garda Síochána as well as giving a sense of the regional distribution of those incidents and of the many checkpoints operated by Gardaí. It has given the public a valuable insight into the lived experiences of a wide range of communities and groups revealed in the outreach work undertaken by the Authority. Those insights provide a source of important new perspectives for the Authority, perspectives which have the potential to be of even greater value to the Commissioner and his colleagues. And the reports have been an important public exercise of the Authority's statutory oversight role.

The reports have been remarkably positive about the experience of policing during the emergency. But no set of actions will ever be universally experienced in precisely the same way. There are communities where the relationship with the Garda Síochána has not been as would have been wished. Some of these responses are also included in these reports. Giving expression to these views, perceptions and experiences is not to question or negate the experiences of others but to give a richer sense of the differing ways in which policing can be experienced and perceived. It is necessary that we should appreciate these differing perspectives, welcome the evidence that the outreach unfolds and value the greater understanding that will result. The Authority has initiated conversations with the Commissioner and his colleagues about how a more fully rounded presentation of the breadth and depth of the community contacts can be shared.

The easing of the restrictions in recent weeks, with further relaxations in sight, is very welcome. The range of emergency powers is greatly lessened and affect a relatively narrow section of the population who have particular roles or responsibilities. This allows Gardaí to return to the pre-

existing statutory powers and to exercise the not insignificant powers of persuasion that the Garda Síochána has always enjoyed. Other regulatory agencies can now assume a more prominent and appropriate role.

It may be the case that a worsening of the Covid 19 outbreak will occur in the future and require the re-imposition of restrictions. Even if that were unfortunately to be the case, the Authority hopes that it will not be necessary to return to the emergency powers and associated regulations. We will have early conversations with the Commissioner about how such new circumstances might be handled and about how we can have comprehensive reporting of the use of whatever policing powers may arise.

The rich outcome of the discussions with communities throughout the country which the Authority has conducted, together with the Garda Síochána's own community engagements, will offer really important opportunities for learning by all concerned – the Gardaí, public policy and the Authority. We hope very much that the tone and approach that were so warmly welcomed by the public, and which appear to have emerged less by direction than by spontaneous Garda response, will be encouraged and retained as a constant signature of the Garda Síochána. There is immense potential for these experiences to be embedded in the training and professional development of all Garda personnel.

The Authority also hopes that the use of Anti-Spit Hoods will continue to decline, as we earnestly hope that the assaults on Gardaí will cease. We will encourage the Commissioner to withdraw the use of these devices as the restrictions are lifted and to give tangible expression thereby to the stated intention from the outset that their introduction was for the emergency period only. As noted in a previous report, we will consider how frequently these reports will require to be issued in the new circumstances.

Bob Collins

Chairperson

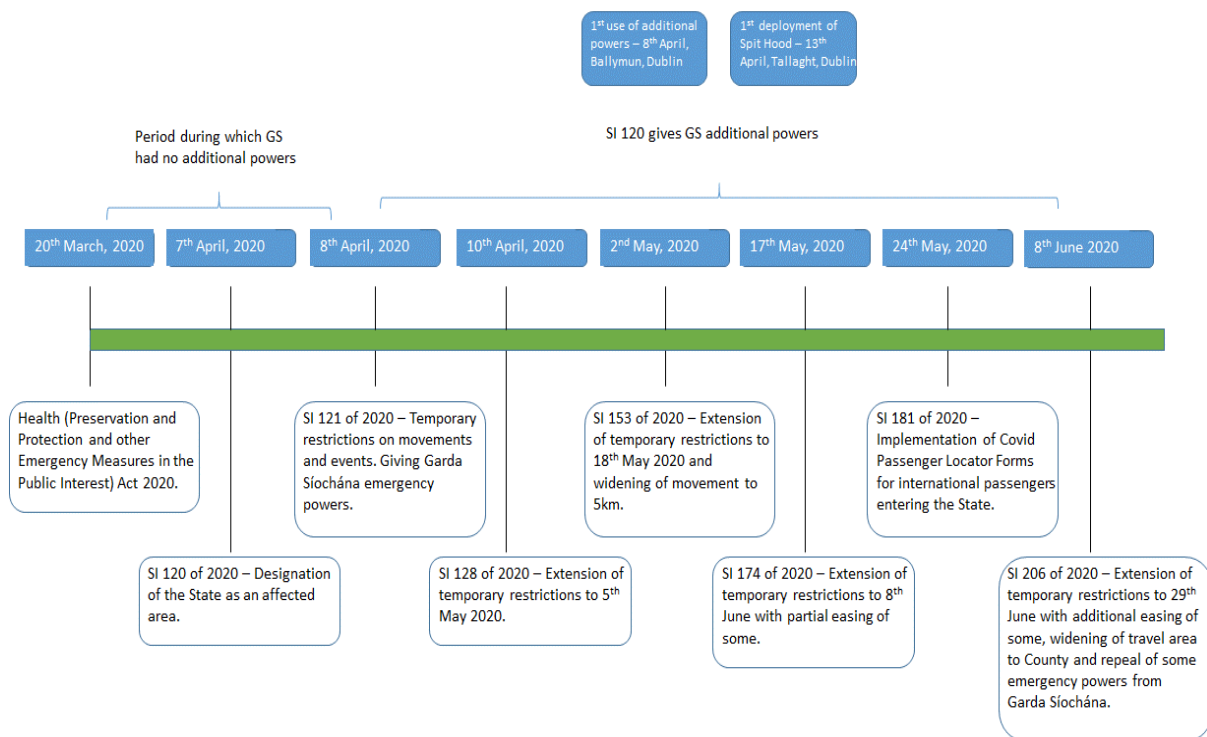
1 Introduction

This is the fifth in a series of reports to the Minister for Justice and Equality in response to his request to the Policing Authority on 16 April 2020 to provide reports on its oversight activities and its assessment of the application of the COVID-19 Regulations by the Garda Síochána since the regulations came into force on 8 April 2020.

The main purpose of this reporting has been to consider whether the exceptional powers¹ conferred on the Garda Síochána during this public health emergency have been used proportionately and only when necessary.

On 8 June, Phase 2 of the ‘Roadmap for Reopening Society and Business’ commenced and Figure 1 provides an illustration of the development of the regulations and the approach adopted by the Garda Síochána to policing during this emergency period. Overall, the approach adopted has been to ensure compliance from citizens through a process colloquially referred to as the four E’s – Engage, Educate, Encourage and as a last resort Enforce.

Figure 1: COVID 19 Emergency Legislation and Powers



- At the beginning of the Covid-19 emergency period, from 20th March to 7th April the Garda Síochána had no additional powers and relied heavily on the first of three E’s using their pre-existing powers of enforcement where necessary.

¹ Section 31 (A) of the Amended Health Act, 1947 and the associated regulations.

- On 8th April the Minister for Health through Statutory Instrument (S.I.) 121 of 2020 empowered the Garda Síochána with additional powers to:
 1. Direct a person to comply with the Regulations;
 2. Arrest for failure to comply with such a direction;
 3. Demand a person's name and address;
 4. Arrest for failure to comply with the demand for name and address; and
 5. Arrest for failure to comply with the Regulations.
- These powers covered everyone and all activities within the State with a range of legislated exceptions to ensure that essential services could continue to be provided.
- The period for the continued use of these powers was extended through the implementation of three additional S.I.s to cover the extended period from 8th April to 7th June 2020.
- On the 8th June S.I. 206 of 2020 came into force. In addition to easing some of the restrictions that had been imposed on the general public it revoked a number of the penal provisions set out in S.I. 121 of 2020 and replaced them with limited range of penal restrictions focussed on the organisation and undertaking of events, and access to business premises. The impact of this has been to remove the powers above from the public at large and to limit their application to individuals organising certain events and those individuals who by occupying, managing or otherwise being in charge, control access to certain premises.

In short, the circumstance at the time of writing is that the Garda Síochána no longer have the ability to prevent the general public from travelling outside the geographical limit set out in S.I. 206 of 2020, nor can they arrest people for doing so or for failing to provide their name and address when doing so. The Garda Síochána are once again relying on their pre COVID-19 set of powers. Since the period covered by this report (i.e. from 8 April to 20 June) covers in part the period from the implementation of S.I. 206 of 2020 (i.e. from 8 June) the data provided by the Garda Síochána and set out in Section 2 will need to be evaluated in this context.

As the Authority noted in each of its previous reports the enforcement of the COVID-19 powers is only one aspect of the work that has been undertaken by the Garda Síochána during this period. A much more significant use of garda resources during this period has been devoted to the implementation of the other three E's. To assess the effectiveness of this approach the Authority has continued its outreach work with range of external stakeholders and interested groups/organisations representing various segments of society. The feedback received, which remains overwhelmingly positive about the Garda Síochána's policing, is presented in Section three.

Section four of the current report, the final section, reflects on a number of key oversight issues and is based on the Authority's analysis of data provided in addition to its engagement with the Commissioner and members of his Senior Leadership Team, and attendance at a number of internal garda operational briefings across all levels of the organisation.

2 Policing COVID-19 in Numbers

2.1 Introduction

While the primary focus of this report concerns the Garda Síochána's policing of the COVID-19 emergency and the use of the additional extraordinary powers conferred upon them to help restrict the spread of the pandemic it is important to note that garda activities and resources continue to be expended to keep people safe and, to investigate, detect and prevent crime. On 12 June, the Garda Síochána issued a report comparing crimes reported in the period between March to May 2020 to those reported in the same period in 2019. The report "Crime Trends During Covid-19" can be found [here](#)².

Overall the Garda Síochána has provided data to show that the period has been marked by a significant reduction in reported crimes due in large part to the combined effects of restrictions on people's ability to travel and congregate, the effective closure of shops, businesses and places of entertainment and the increased presence of garda members on the ground. For example:

- Attempts/ Threats to Murder, Assaults and Harassments are down by 24%;
- Burglaries are down by 44%;
- Sexual offences are down by 38%;
- Public Order Offences are down by 13%; and,
- Drunkenness Offences are down by 28%.

On the other hand, restrictions to people's movements has contributed to an increased incidence of domestic violence/abuse and sexual abuse. Domestic abuse related calls are up 25% when compared to levels for the same period in 2019 while reported breaches of domestic violence order incidents are up 10% and the number of formal notifications to TUSLA has risen by 18%. In this regard in a number of its previous reports the Authority noted the fears expressed by stakeholder groups, providing support to domestic violence and sexual abuse victims, of the likelihood of a "tsunami" of referrals post COVID-19.

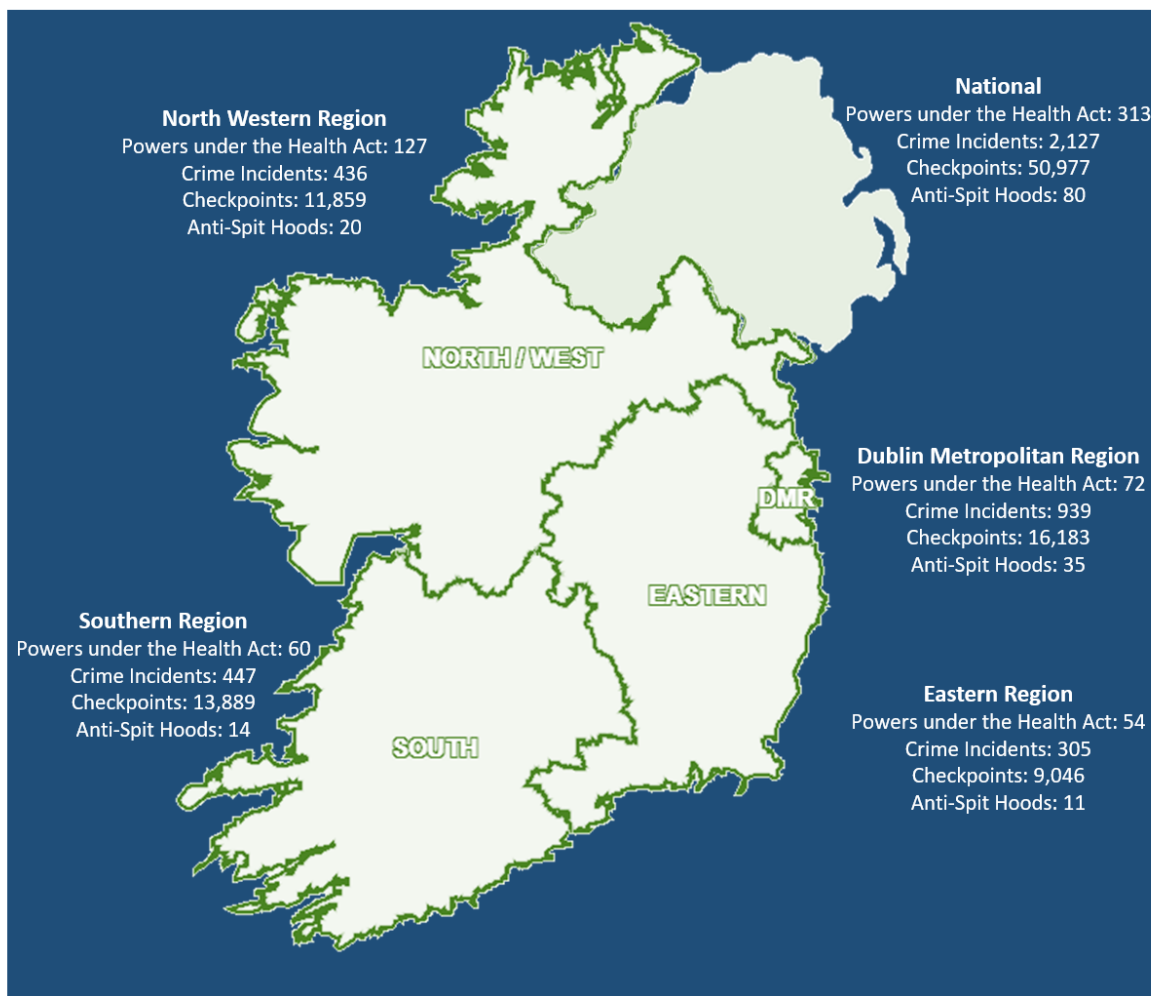
The Garda National Economic Crime Bureau (GNECB) has seen an increase in online frauds with 'Account Take Over Frauds', 'Phishing/Vishing/Smishing Frauds' and 'Shopping/Online Auction Fraud' up by 56%, 45% and 55%, respectively.

It is also disappointing to see that despite the massive increase in the number of checkpoints nationally, 32 fatal collisions occurred during the period compared to 26 in 2019.

We now turn to specific COVID-19 policing. In the paragraphs that follow operational data provided by the Garda Síochána to the Policing Authority on 23 June 2020 for the cumulative period from 8 April 2020 to midnight on 20 June 2020 is presented. A summation by region is provided in the illustrative map in Figure 2.

² <https://www.garda.ie/en/about-us/our-departments/office-of-corporate-communications/news-media/crime-trends-during-covid-19.pdf>

Figure 2: Policing COVID-19 in numbers - summary by region for the period 8 April to 20 June³



2.2 Use of Powers under the Health Act, 1947 as Amended

The total number of times the powers, under the Amended Health Act, 1947 and associated Regulations, were reported as exercised from their introduction until midnight on 20 June 2020 is 313 and their use is spread across the country as illustrated in Figure 3 below. The Garda Síochána has reported that two of these incidents were at the direction of a health professional, which represents no further increases from previous weeks. An examination of the geographic distribution of the use of powers in detail does not identify any concerns with regard to the use of powers being disproportionately used in any particular region.

³ As noted in previous reports, the data consists of near real time extracts from PULSE, CAD and other supplementary sources including manual returns and is therefore subject to change, through either ongoing clarifications or new reports for the period in question. This data is also only reflective of the use of powers and, crime incidents refer only to those incidents associated with COVID-19 Policing activities. It does not refer to all crime in the state. The data is therefore not suitable for statistical analysis such as linking with other sources, comparisons or the construction of time series or trends.

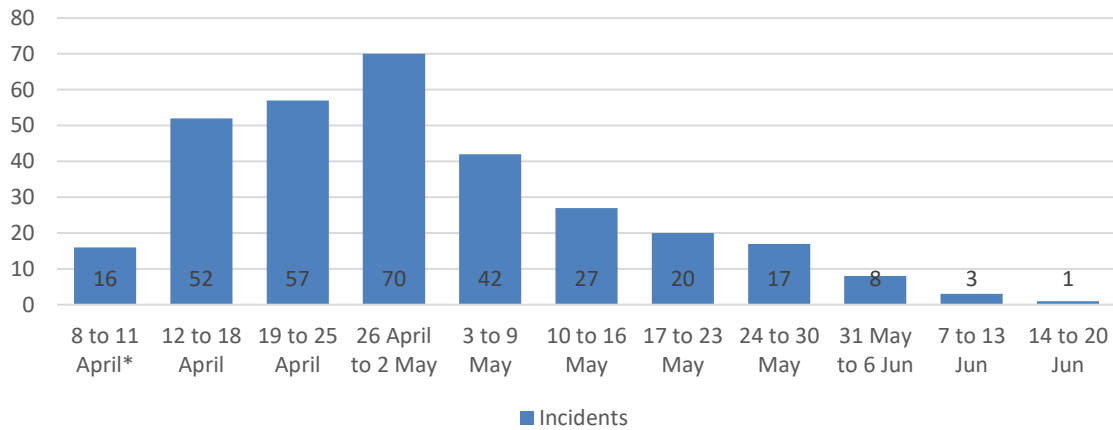
Figure 3 - Reported use of COVID Policing Powers by Garda Division between 8 April and 20 June



- The North Western Region⁴ accounted for 127 (41% of) incidents since 8 April and remains the region with the highest number of such incidents. Cavan/Monaghan and Galway remain the two divisions with the highest number of incidents. At station level, one station in the Dublin Metropolitan Region had 11 incidents associated with it, while one in the North Western Region had eight incidents associated with it.
- A further 14 incidents are being reviewed to determine their exact nature and may result in an increase to the overall number, or may be deemed not to be a use of these powers and therefore excluded from future analysis. Incidents, which had been noted as requiring clarification in the last report, have resulted in some increases to previous weeks' figures.
- The Authority had requested that the Garda Síochána provide a disaggregation of which of the five powers were used in the 313 incidents and this has not yet been provided.

⁴ The North Western Region comprises Counties Galway, Mayo, Roscommon, Longford, Louth, Donegal, Sligo, Leitrim, Cavan and Monaghan.

Figure 4: Number of times powers under the Health Act, 1947 have been used per week, 8 April to 20 June

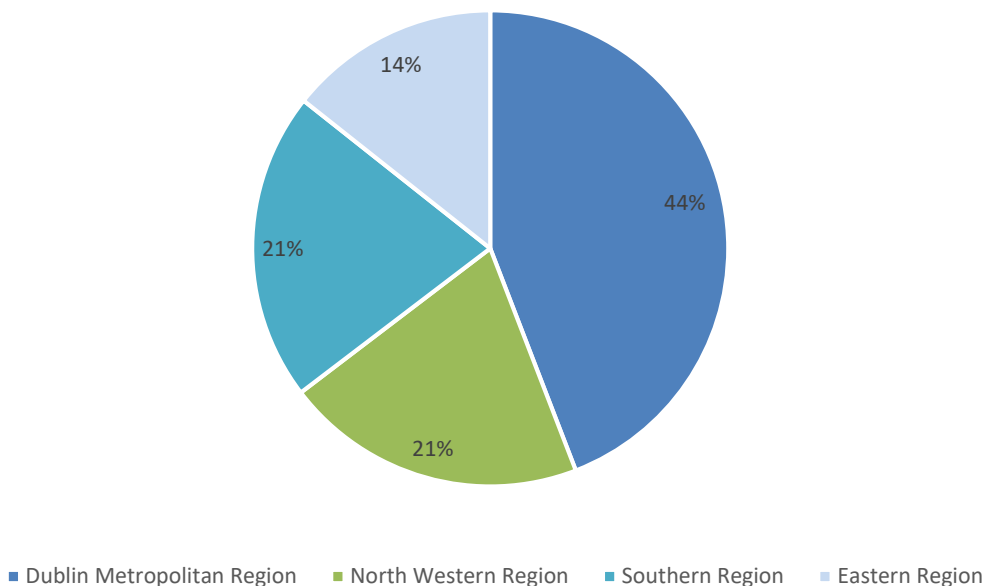


*As figures are reported since 8 April, this period only represents four days

- The weekly breakdown of the use of powers provided in Figure 4 shows a gradual decrease since the beginning of May. The relatively low figure of 3 reported for the week beginning 7 June and 1 reported for the week beginning 14 June is to be expected given the enactment of S.I. 206 of 2020 as discussed earlier.

2.3 Incidents Associated with COVID-19 Policing Activities

Figure 5: Percentage breakdown of incidents associated with COVID-19 policing activities by region, 8 April to 20 June

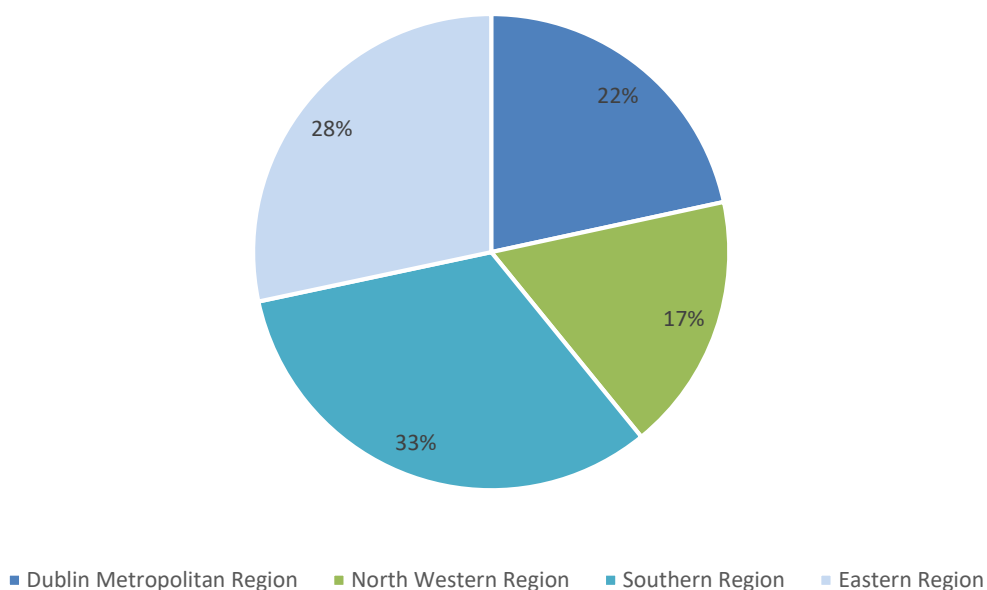


- From 8 April to 20 June 2020, there were 2,127 COVID-19 related crime incidents, reported as suspected offences disclosed or uncovered in the course of COVID-19 policing.
- In the previous report to the Minister, for the period 8 April to 30 May, there were 1,878 such incidents. This means an additional 249 incidents have been recorded or confirmed in the past three weeks (a 13% increase). It is noted that some of these “new” incidents may have occurred prior to the 30 May but were not included in previous totals due to not being validated at that time.
- Approximately 19% of these offences relate to public order, while a further 15% relate to simple drug possession. General road offences was the third most frequent offence classification, accounting for approximately 13%. However, when all types of road offences are combined, they account for approximately 38%. The proportion of all incidents accounted for by all of these incident types has not changed significantly since the last report.

2.4 Road Checkpoints

Indicative data has been provided for the number of checkpoints carried out across the country for the period 15 June to 21 June. While the number of checkpoints carried out has fallen relative to those reported in previous weeks, approximately 2,700 checkpoints were conducted which represents a continuing significant presence in support of the 4 E’s approach adopted by the Garda Síochána and referred to earlier. The checkpoints carried out for the week 15 June to 21 June were spread throughout the country with 33% in the Southern Region, 28% in the Eastern Region, 22% in the Dublin Metropolitan Region and 17% in North Western Region.

Figure 6: Percentage breakdown of checkpoints carried out by region, 15 June to 21 June



3 Outreach

Since the submission of the previous report to the Minister, the Authority has continued to engage with a range of statutory, voluntary and civil society organisations to gain an experiential perspective on policing performance during the COVID-19 crisis. Engagement to support this most recent report has included discussions with Joint Policing Committee (JPC) chairpersons, and organisations working with children and young people, with Travellers and in marginalised urban communities.

The outcomes of these discussions are set out briefly below.

3.1 Policing Phase 2

Reports from around the country continue to provide positive feedback concerning the approach to local policing during this period. There has been a general recognition that the move to phase 2 has brought with it added complexity for policing as the number of people on the move has increased, brought about by changes in the restrictions. The policing of community areas/beauty spots such as parks and beaches is a common cause for concern expressed across JPCs and this centres on the perceived ability of the Garda Síochána to effectively manage large crowds in these areas in the context of seeking to encourage observance of the public health advice on social distancing. Policing at these venues has been reported as good with strong community engagement. It has also been reported that local authorities are assisting in monitoring in some counties/areas.

While JPC Chairpersons continue to report that local crime remains vastly reduced throughout the country, there are growing concerns about rising levels of public disorder and incidents of anti-social behaviour connected to young people. It is widely felt that the absence of school and the cancellation of the Leaving Certificate, combined with the continued closure of all retail and local amenities resulted in a lack of outlets and activities for young people, thus in some areas they are congregating in groups and engaging in these activities.

3.2 Impact on Young People

The perspective of young people was a particular focus of engagement with stakeholders since the last report. This engagement confirmed the views expressed by JPCs that the COVID-19 crisis has seen a loss for young people, of structure in their day and outlets for social engagement. There is also a sense that young people increasingly believe the period of risk has ended and that by virtue of their age, they don't have anything to fear from the virus. While there was a general acceptance among young people as to why the Garda Síochána presence was there in phase 1 and generally there has been very little conflict, that acceptance is described as diminishing, as young people do not now believe there is a risk from COVID-19 for them. There was a sense expressed that as young people increasingly begin to find spaces to meet, that the potential for conflict with the Garda Síochána will increase.

Children and young people are not a homogenous group and the views expressed here do not purport to be representative of all children but it is useful to consider the reported experience of policing of the young people engaged with. The view was expressed that young people were disproportionately policed during this period. Examples were given of young people being told they were not allowed in parks while seeing families and others being allowed through, or being told to

go home when out walking within 2km of where they live. This, combined with references in the media to ‘gangs of young people’ has created an impression for some, that their presence and visibility during this time has in itself been uncomfortable for others, with an assumption that they are up to no good. The view was expressed that there has been insufficient understanding given as to the reasons for their visibility – be it that they come from a small house or apartment which is now constantly peopled or perhaps a home environment from which they need respite. This has resulted in a sense that they have been policed more during this period and this sense is keener within certain cohorts of young people.

For children and young people within some communities, policing during COVID-19 is reported as being experienced as an ‘instrument of control rather than an instrument of care’. It has highlighted for them what they perceive as differential policing in different areas linked to the fact of their area being economically disadvantaged or their membership of a minority community. The number and placement of checkpoints was raised with reference made to perceived disparities as between private estates and other areas. In some areas young people who had previously offended believed that they were being policed more during this period with interactions described as ‘heavier’ and they questioned whether COVID-19 had presented opportunities for the ‘volume’ to be turned up on policing in certain areas. Others remarked that there was a fear that once you were in PULSE there was little confidence in ever having positive engagement with Gardaí. Their experience of policing during COVID-19 served to confirm their perspective that policing is different depending on where you live and who you are.

3.3 Starting point of the policing relationship

The policing of COVID-19 is not occurring in a vacuum. Its impact and success cannot be divorced from a consideration of the policing context that pre-existed the crisis. COVID-19 has served to bring this into sharp relief exposing what is both good and bad. For young people across marginalised and minority communities, it appears that the quality of their pre-existing relationship with the Garda Síochána has influenced and been underscored by their experience during this period.

In terms of what constitutes quality, organisations working with children spoke to the singular importance of the relationship with the child being based on ‘unconditional positive regard’. This is typified by active listening and respect. It was remarked that Juvenile Liaison Officers often have a relationship of a different character with young people and their families – this was described as softer, more understanding and as a result more effective. Organisations highlighted the difficulty in establishing good relationships if the only contact point between children and the Garda Síochána is law enforcement. The Garda Schools Programme was cited as critical in terms of it bringing the Gardaí into contact with children in a non-law enforcement context, with the interaction being framed instead in terms of care, welfare and harm reduction. This allows children to see more than the punitive side of policing.

In terms of other initiatives to build relationships with children it was remarked that these are ‘not awards ceremonies, medals or speeches – not just meeting the ‘nice kids’’. Ultimately, each interaction and the degree of respect shown for the child or young person determines that relationship. Travellers reported that young Travellers experience Gardaí throwing ‘small and belittling comments’ towards them regularly with an emphasis on policing them rather than building relationships with them.

The relationship with Gardaí can also be influenced by children's perception of the fairness of policing. One organisation spoke to the sense that young people felt it as unfair that policing for possession for small amount of drugs was carried out consistently while leaders of drug gangs in their area remained, in their view, untouched. While there is some understanding as to the need for Gardaí to gather significant evidence, the perception in the community can be that the Garda Síochána is doing nothing in relation to the leaders of the drugs gangs.

3.4 Relationship with the community

In discussing the reported experience of policing during COVID-19, the majority of groups and organisations the Authority has engaged with have referred to an overwhelmingly positive experience of engagement with the Garda Síochána. All have raised community policing as a recurring theme and as the context in which the policing of COVID-19 needed to be considered. They cited the importance of community policing in terms of trust, relationships, confidence in the policing service and crime prevention. While reference is made to resourcing levels, emphasis is also placed on the quality of the relationship that exists between the community and the Gardaí. This view was expressed both by communities within a particular geographic area, groups and organisations that work with particular groups in society and by minority communities.

As the Authority has had the opportunity to extend its outreach work it has found that this positive engagement has not been experienced consistently. Those that state that they had not enjoyed positive relationships with the Garda Síochána before COVID 19 have not necessarily seen any improvement during this period. Some did and it is their hope that this can be built on and maintained post the COVID 19 emergency period. For others, an awareness of the positive engagement that is happening has served to further emphasise the contrast with their previous experience with the Garda Síochána.

There was a sense expressed by more than one organisation and community that the Garda Síochána, has a poor understanding or 'naiveté' at times in terms of the depth of negative feeling towards it within a community and the impact of that negativity on policing outcomes. Factors which augment that negativity include the actions of small numbers of Gardaí that can damage trust, frequent turnover in community Gardaí which mitigates against relationship building, non-responsiveness to call outs and a lack of leadership in developing community relations. The issue of diversity was also raised. The degree to which the composition of a police service reflects the population it serves is important. Reference was made to diversity having jumped to considerations of ethnicity without having addressed issues of social class. The low numbers of Gardaí who have experience of growing up in working class urban areas was seen as impacting on the degree to which a community could relate to its police service or it to them. This becomes self-reinforcing in that poor community relations impact on the likelihood of members of the community wanting to become Gardaí. It suggests that the issue of a diverse workforce is as much about community policing as an area of focus, as it is about recruitment campaigns and initiatives.

3.5 The 'Good Guard'

As in previous reports, groups and organisations have continued to reference the tremendous work undertaken by individual Gardaí during this period. Reference would be made to the area having a

‘good guard’ during this time or a particular sergeant ‘getting it’ and ‘being supportive’. The impact of the ‘good guard’ is palpable in discussions, often with reference being made to Gardaí long retired but whose actions had left a positive legacy. This has arisen throughout the engagement with groups and organisations across all the topics covered, including community policing, policing of minority groups and the response to domestic violence. The overriding sense expressed is that there is a perceived dependence on getting ‘lucky’ in getting the right individual rather than being able to trust that the organisation’s culture, strategies and policies will deliver a consistent policing response - irrespective of the allocation of personnel. This has been highlighted during the period of COVID-19. Individual working relationships appear to disproportionately influence the quality of the service provided and the resilience of the relationship between an organisation and the Gardaí is exposed when a particular Garda moves on or is on leave. Practice and relationships are not yet systemic.

These relationships impact the effectiveness of the service provided but also the outcomes for individuals. The salience of the point made in previous reports concerning the acknowledged limits on the competence and remit of the Garda Síochána endures. The majority of calls for service do not require a law enforcement response but it is critical that Gardaí as first responders understand and are familiar with the community infrastructure that exists and can refer the individual or draw down the support as needed.

The ‘Good Guard’ was also spoken of in terms of his or her tone and reference was made to certain Gardaí being known to be consistently respectful, even in difficult situations. It would be hard to overemphasise how strongly this came across in all the engagements, in terms of its impact on the community’s confidence in the Garda Síochána to deliver an effective policing service for them. It presented as a desired and valued policing outcome in itself. The challenge for the Garda Síochána is to embed a consistency of service across communities and groups in society.

4 Commentary on Some Key Oversight Themes

There are four key themes informing the Authority's ongoing oversight in relation to the policing performance by the Garda Síochána during COVID-19, namely:

- Use of powers and use of force;
- Community engagement and service to vulnerable groups;
- Well-being of Garda Members and Staff; and
- Policing to protect and respect Human Rights.

Since the last report the Garda Síochána has facilitated Authority staff attending a range of internal meetings and briefings across all levels of the organisation which has enhanced the breadth and depth of the oversight work. These included attendance at a Senior Leadership team daily COVID meeting; Regional briefings in the Eastern and Southern regions; Divisional briefings in Kildare, Carlow-Kilkenny, Waterford, Kerry and Cork City; District briefings in Naas, Carlow, Kilkenny and Tramore; and, Unit Briefings in Naas, Carlow, Kilkenny and Cork West.

4.1 Use of Powers and Use of Force

Reporting on use of emergency powers

In the 74 days that have elapsed since 8 April when the health restrictions were initially introduced to 20 June the Garda Síochána has reported using the emergency powers it acquired as a result of COVID-19 on 313 occasions, deploying anti-spit hoods on 80 occasions and using its pre-existing powers on COVID-19 related incidents on 2,127 occasions. To put this into context, over approximately the same period, the Garda Síochána has reported in excess of 1 million interactions with members of the public. The relatively low level of reported use of the COVID-19 powers in this context supports the graduated approach adopted by the organisation at the outset of the emergency and more importantly its implementation by members on the ground. While not to demur from this achievement, the Authority would highlight that the reported use of powers is a potential underestimation, albeit potentially relatively minor. This is in the context that garda members have not recorded the number of occasions on which they used the power to formally direct individuals to comply with the regulations and the individual has complied.

Given the enactment of S.I. 206 of 2020, the easing of restrictions and the revocation of a number of emergency related penal provisions, the Authority would expect to see a further significant decrease in the use of COVID-19 Powers. The virus is still prevalent and the potential for members to become infected through either their interactions with the general public or as a result of deliberate and malicious coughing/spitting assaults remains a challenge to be dealt with and the use of ant-spit hoods in this scenario is discussed below.

However, the scaling back of the emergency response gives the Garda Síochána both the opportunity and the space to consider what lessons have been learned and how a re-scaling up of the response could be implemented in the future, if required. This has been discussed with the Garda Commissioner on a number of occasions including most recently at the Authority meeting on 24 June 2020.

The extraordinary emergency powers implemented in response to the COVID-19 pandemic are by necessity a derogation from the human rights of, and constitutional protections afforded to, citizens.

In order for the Authority to fully perform its functions, it must be satisfied that these derogations in the form of the exercise of these emergency powers, are lawful, proportionate and necessary. However, for human rights derogations to be permissible they must also be capable of being subject to review. This in turn requires adequate information to be available from the Garda Síochána on the use of the powers.

The Authority continues to be concerned that the information being provided is not sufficient for that purpose. It is for this reason that the Authority has continued to ask the Garda Síochána to report on the number of times that formal enforcement under the emergency legislation has proved necessary, such as for example formally directing a person to comply with the Regulations where the individual has complied.

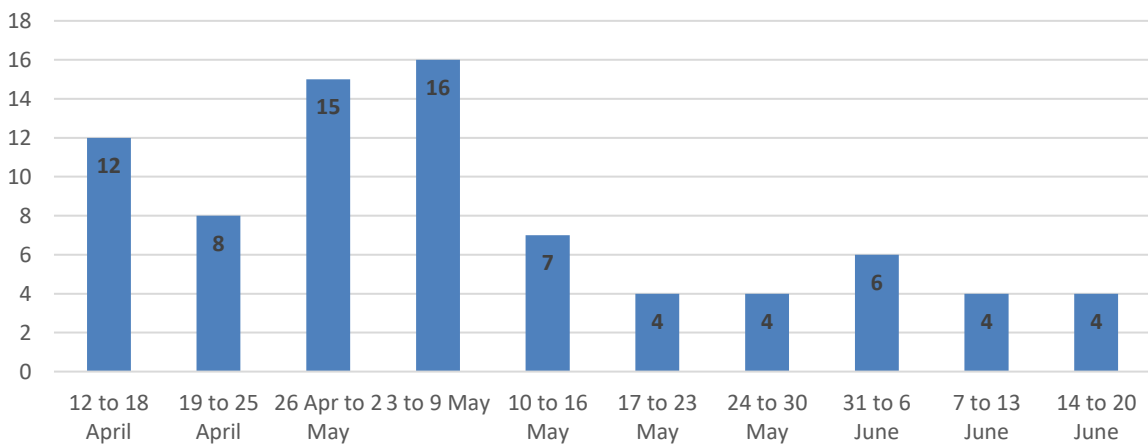
Use of anti-spit hoods

The use of anti-spit hoods remains a key concern for the Authority and all reported uses of these are being examined and will continue to be keenly monitored until the anticipated withdrawal of these hoods when this public health emergency comes to an end.

As previously reported, the Garda Síochána has provided instructions for Members on when it is permissible to use an anti-spit hood and it is clear that they are only to be used where it is necessary and proportionate and in particular where there is clear evidence of ongoing spitting or where a member believes there is a clear and tangible threat of spitting. Members are also required to provide a warning before the application of a hood on a person.

For the week ending 20 June 2020, anti-spit hoods were used an additional four times, bringing the total uses to date to 80, which include four involving persons under the age of 18.

Figure 7: The number of weekly applications of anti-spit hoods by the Garda Síochána, 12 April to 20 June

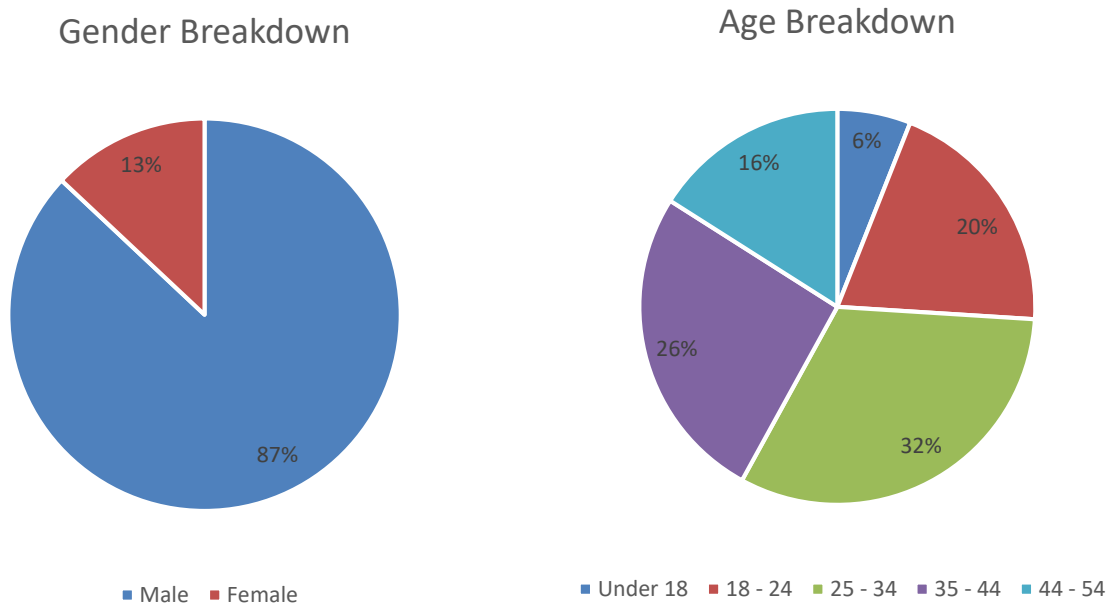


- Since their introduction, they have most frequently been used in the Dublin Metropolitan Region, which accounted for 35 of the incidents.
- Public Order offences accounted for 40 of the incidents while assault accounted for a further 17.

- Additional use of force is not routinely reported with the use of spit hoods. However, it is evident from the detailed reports and supplementary information that in at least 18 of the 80 incidents either incapacitant spray, a baton or both were used in conjunction with the anti-spit hood.

In addition to this headline number, the Authority continues to receive a detailed report from the Commissioner for each use of an anti-spit hood. The Authority has examined the detailed data provided by the Garda Síochána to date on 71 instances of the use of anti-spit hoods over the nine week period from the week beginning Monday 6 April to Sunday 6 June. A summary of their use over this period is provided in the graphs below.⁵

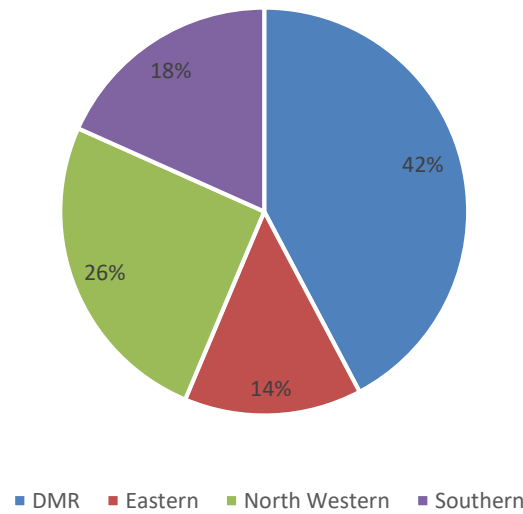
Figure 8: Percentage gender and age breakdown of the application of anti-spit hoods, 6 April to 20 June



- The vast majority (nearly 90%) of those to whom anti-spit hoods have been applied are male. The Garda Síochána also report details for the number of spitting assault incidents on garda members (see below). An analysis of the data shows the male/female split of spitting assault suspects corresponding to 65% and 22%, respectively (with 14% unknown).
- In terms of the age distribution, over three quarters of those individuals to whom spit hoods were applied are accounted for by those between the ages of 18 and 44 years, while 6% are accounted for by those under 18 years.

⁵ Full details have not been provided yet for all the 71 reports. This varies from 2 to 4 unknown observations. Percentage distributions have been adjusted as a consequence and remain consistent with the overall trends.

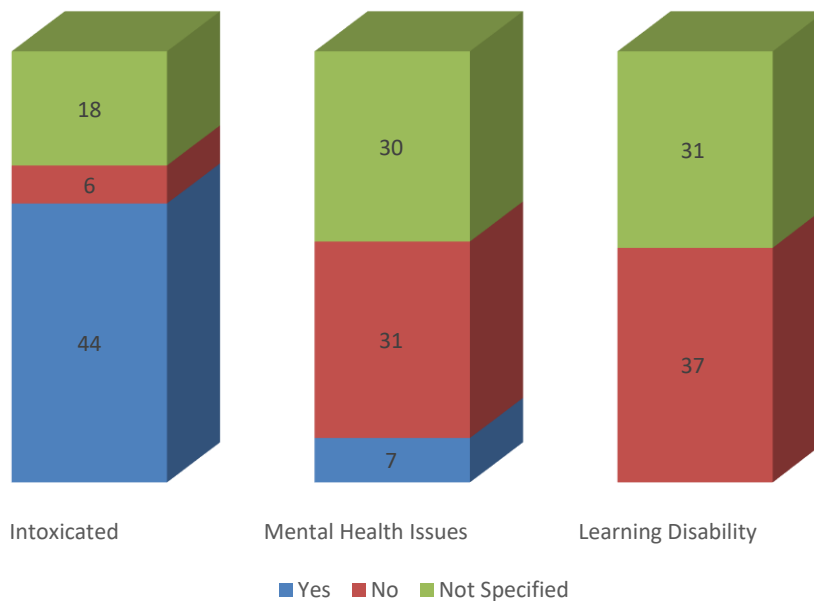
Figure 9: Breakdown of anti-spit hood applications by region and number, 6 April to 20 June



The regional breakdown is presented in Figure 9 and is broadly consistent with the regional breakdown of incidents associated with COVID-19 reported in Figure 5 above. 42% of anti-spit hood applications occurred in the Dublin Metropolitan Region with 26%, 18% and 14% occurring in the North Western, Southern and Eastern regions, respectively.

The Authority asked that garda members collect and record some perceived characteristics of the individuals to whom anti spit hoods were applied. This data was provided for 68 cases and is illustrated in Figure 10.

Figure 10: Perceived specific characteristics of those to whom anti-spit hoods were applied by category and number, 6 April to 20 June

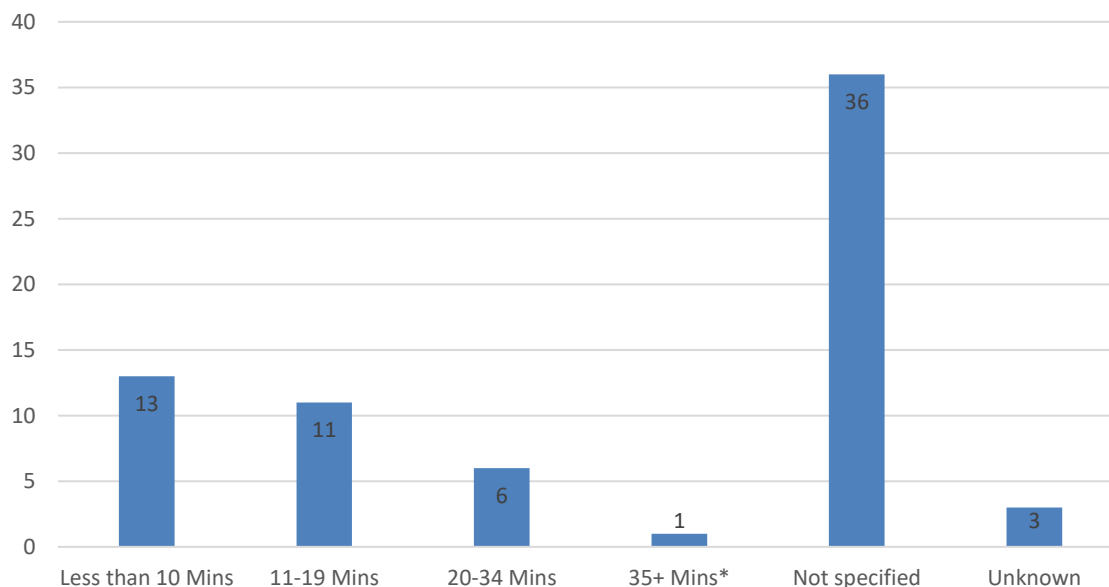


- In 44 of the 68 cases the garda members were of the view that the individual in question was intoxicated.
- In 7 of the cases reported on there was a perception that the individual was demonstrating signs of a mental health issue.
- While garda members did not report any case where the individual was demonstrating learning difficulties the Authority is concerned by the nearly 50% of cases where the issue was “not specified”⁶ by the garda members involved.

Given the documented physical and mental anxiety associated with the use of anti-spit hoods the Authority are particularly concerned about medical complications that could arise because of their application and particularly in the case of prolonged use. For the 71 cases examined garda members reported that in no cases was medical assistance sought as a result of the use of the anti-spit hood. However, worryingly for the Authority, this field of the report was “not specified” in 38 of the 71 cases.

With regard to the length of time for which the anti-spit hood was in place Figure 11 presents the data recorded by garda members. Once again the high number in the “not specified” category is concerning. It is also known that in one particular case the anti-spit hood was in place for over 5 hours.

Figure 11: Breakdown of time for which the anti-spit hood was in place by number, 6 April to 20 June



**Anti-Spit Hood in place for over 5 hours*

⁶ The term “not specified” is used to cover instances where this type of data was not collected by garda members who were using a recording template that did not require such information at that time.

Armed Checkpoints

We continue to monitor this issue through engagement with the Commissioner and his senior leadership team. Given the reduced level of checkpoints and the gradual resumption of normal duties it is unlikely that the issue will arise again save for those checkpoints where garda intelligence suggests an armed presence is necessary.

Incidence of potential complaints

The Authority has discussed the issue of COVID-19 related complaints with GSOC. GSOC began collecting data from mid-March and have currently assessed 173 complaints as COVID-19 related complaints. In other words matters that GSOC regard as featuring some element of the COVID-policing response or matters pertaining to the novel coronavirus. Necessarily this is a subjective test and one on which GSOC exercise their considerable judgement and expertise. The complaints received by GSOC are at various stages of the assessment process and ultimately a number of them may not meet the statutory criteria for continued investigation by GSOC. Indeed a number of the 173 complaints have already been closed or resolved in some other way.

The nature of the complaints in general tend towards matters relating to either social distancing, the wearing of PPE or the interpretation of the various “radius from home” restrictions on travel. The complaints have tended to be initiated by either a Garda checkpoint, search activity, arrests or some other form of direct policing activity and some complaints mention more than one factor (e.g. “the Member did not observe social distancing when he spoke with me and was not wearing any PPE”). By way of contrast, a small number (8 so far) have gone straight to the “criminal investigation” category. Each of these eight complaints are assault-related allegations.

4.2 Community Engagement and Service to Vulnerable Groups

There is a general acknowledgement that Phase 2 restrictions introduced greater complexity into the policing of the COVID-19 crisis. Despite this, a generally positive response to the efforts and activity of the Garda Síochána, endures. Challenges were identified relating to the policing of certain areas with an anticipation that more young people may come into contact with the Gardaí as they increasingly seek to find spaces to socialise.

While the majority of those engaged with continue to point to the positive experience of policing during this period, the engagement with groups and organisations working with young people across a variety of marginalised and minority communities point to a less positive experience of policing during this time. Policing is perceived in these instances as being a matter of control rather than concern. The policing experience was reported as disproportionate and perceived as different depending on where you live and who you are.

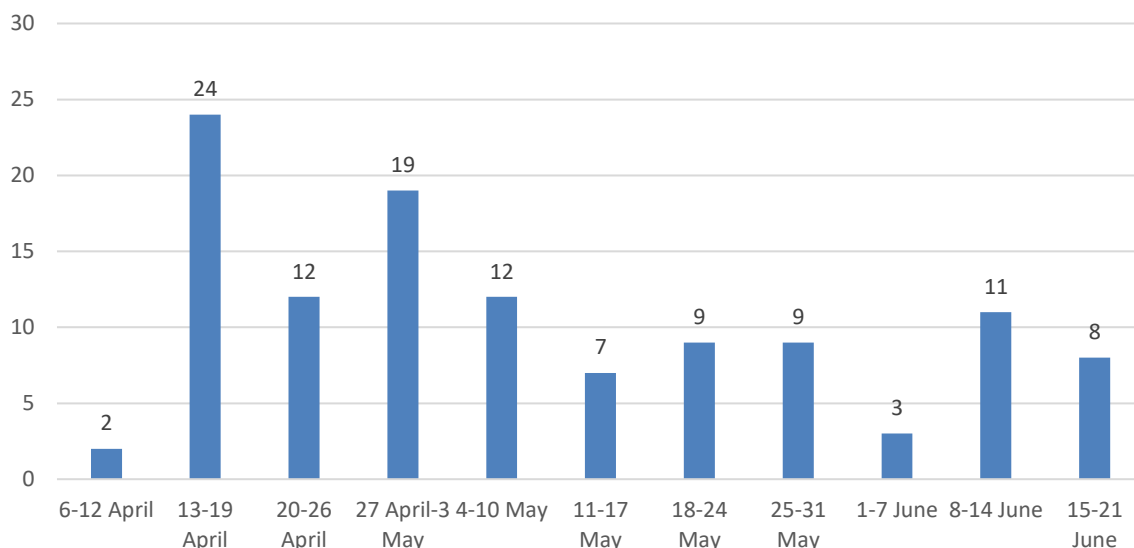
The outreach work draws important attention to the Garda Síochána’s relationship with these communities. It makes important linkages between those relationships and community policing, issues of diversity but also the impact on community confidence of a perceived lack of respect for the community. The emphasis given to the importance of tone and respect in the engagements would seem to suggest that this in itself has the character of a valued policing outcome.

The Chairperson and Chief Executive have spoken directly with the Commissioner on this issue and shared ideas regarding its facilitation of meetings between the Senior Garda representatives and various stakeholders representing marginalised groups in order to benefit from the learning opportunities identified from the successful community engagement of the Garda Síochána during the emergency period. The Commissioner has responded very positively to this suggestion and work will continue over the coming months to progress this engagement.

4.3 Wellbeing of Garda Members and Staff

The continuing safety and wellbeing of garda members while policing COVID-19 in very difficult operational and personal circumstances remains central to the Authority’s oversight activities during this period. Given the shared struggle of the entire citizenry and the State’s institutions is keeping the pandemic at bay it is utterly repugnant that verbal and physical attacks on members continue from a small minority of the public. Unfortunately as Figure 12 below illustrates spitting/coughing assaults on garda members, although decreasing somewhat, continue to occur.

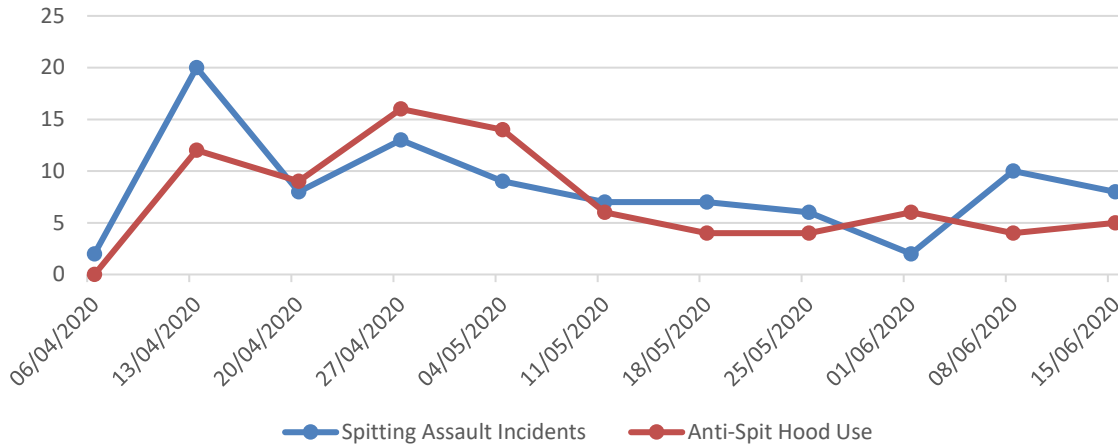
Figure 12: Weekly breakdown of the number of assaults on garda members who have been coughed on or spat at, 6 April to 21 June



In a previous report, the Authority discussed the merits of comparing data for the use of anti-spit hood with the data for coughing/spitting assault incidents. At that time the Authority concluded that such a comparison would not allow for sufficiently robust conclusions given: (i) the evolving nature of the data being reported; (ii) that anti-spit hoods are not used in all incidents where members are coughed on/spat at; and, (iii) that there may be a time lag between an incident occurring and the incident going through the Garda Síochána data quality assurance processes. At this point since the data is now available for an 11 week period a comparison of both trends is useful for illustrative

purposes.⁷ This is presented in Figure 13 below and shows that numbers of spitting assault incidents and the use of anti-spit hoods are following a similar pattern.

Figure 13: Spitting Assault Incidents⁸ Compared to Anti-Spit Hood Deployment, Compared Over Time 6 April to 21 June



Since the last report, no other matters came to the Authority’s attention, which cause unusual concern about wellbeing and safety.

Training, support, supervision and performance of new recruits

This is an issue that remains under review and the Authority continues to engage with the Commissioner and his colleagues on this matter.

4.4 Policing to Protect and Respect Human Rights

Fairness and consistency

Since the last report, we have discussed and engaged with the Commissioner and his garda colleagues around the country on the interactions and work done with regard to policing of the recent ‘Black Lives Matter’ protests throughout the country. The Authority continues to emphasise the importance of both being, and being seen to be, fair and consistent and will continue to keep this matter under review.

Recording Ethnicity

The Authority has not changed its view that the recording of ethnicity is necessary in itself, desirable for greater understanding and is in the Garda Síochána’s own interest to be able to demonstrate that its policing is proportionate, fair in compliance with its human rights obligations. It is clear that the Commissioner understands the need to make progress on this matter. It was discussed again with him during the recent public meeting of the Authority on 24 June 2020. It remains a priority for the Authority and is also on the planned agenda for the July meeting with the Commissioner.

⁷ The caveat remains that this comparison does not purport to be a statistically proven correlation between the two trends.

⁸ The number of incidents is lower than the number of assaults since multiple garda members may be assaulted during the same incident.