



AN TÚDARÁS PÓILÍNEACHTA
POLICING AUTHORITY

Report on Policing Performance by the Garda Síochána during COVID-19

9 November 2020

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Chairperson's Foreword

As these words are written, we are almost three weeks into Level 5 of the National Framework for living with COVID-19. The necessity for the introduction of this level of restriction has renewed the extent of the engagement by the Garda Síochána with the task of policing the health emergency.

This task is a multi-faceted one, as has been reflected in this series of reports. From the outset, the Garda Síochána has been called on – and has taken its own initiatives in making itself available – to assume a role that touches on very many aspects of the lives of all who live in this state. It has taken an extraordinary effort to organise and deploy the level of resources that have been assigned to this work. All elements of this response make their own contribution to the overall outcome that is desired. None is without effect. But some will have longer lasting significance than others.

It is not in the least to diminish any other aspect of the work of the organisation and its staff to suggest that, in terms of safety and social impact, the echoes of the work on sexual crime, on domestic violence and on community engagement will resound for a very long time. The grim truth that what is a health emergency for everybody is also seen as an opportunity by some with criminal intent has also been reflected in the sustained efforts, with considerable success, to detect and disrupt organised criminal gangs and those others who prey on the vulnerable. The continuing garda advice to the public to be wary of new threats associated with current circumstances is an important service.

Reference has been made in earlier forewords to the nature of the public response to the work of the Garda Síochána but it merits restatement. The very positive experiences reported by the great majority of people is a rich bounty from a pandemic that has been a source of tragedy and grief to so many. It is a moment of transformative awareness by gardaí and their leadership of the existence of another way of policing, of new ways of engaging with people, especially those who are vulnerable. It must be the case that everyone involved has seen the response, has felt the satisfaction, has sensed the new relationships develop. And what has been learned has wider application beyond this emergency. That is the opportunity – and the challenge.

Part of the challenge is also to recognise the validity of the voices who express the experiences that have not been so positive, who express the apprehension, as they do in this report, that past experience can affect current perceptions and current realities. Openly addressing these responses also has much to offer.

In this latter context, it was of considerable interest to hear the Commissioner's acceptance and understanding, at a recent meeting in public with the Authority, that views that are widespread in society cannot be remote from the Garda Síochána; that ideas that circulate in the community circulate in the Garda Síochána. This will be the case no matter how good the formal training. Many of these ideas need to be acknowledged, recognised and challenged. The Commissioner's comments were courageous and encouraging. They can form the basis of valuable engagement between the Authority and the Commissioner and with his colleagues at all levels.

One of the striking aspects of this report is the generally comprehensive, and very welcome, observance of the Level 5 restrictions. Reflecting the note of caution sounded in the last report, the introduction of a system of fixed penalty notices more than half way through the intended period of current restriction may appear inconsistent with the level of compliance being demonstrated at present. Could there be a risk that their introduction at this point might serve to reduce the level of

compliance by some? It also seems to be the case that there has been a definite reduction in the types of activities and behaviours that prompted the provision for such penalties in the first instance.

The Authority has consistently held the view that emergency powers for gardaí should be as limited as possible and used as sparingly as possible. One of the virtues of the penal provisions introduced thus far has been that they involve referral by the Garda Síochána to the Director of Public Prosecutions. That has been an important source of detached decision-making in respect of emergency powers and the decisions thus taken represent an important setting of standards. The fixed penalty notice does not have such an in-built check. There may be significant value in their introduction so relatively close to the projected end of the Level 5 stage being the subject of further consideration.

There is some survey evidence that a great many more people believe they have been the subject of the use of new garda powers than the enforcement incidents reported by the Garda Síochána. This refers in the main to those drivers who believe they have been directed, as opposed to being advised or encouraged, to discontinue a journey. The Authority will reflect with the Commissioner on this matter but it is strengthened in its view that a more reliable guide would be the on the spot judgement by a professionally trained garda who would appreciate the distinction between the invocation of a statutory power and the offering of advice. Such insights would also represent an important indicator of levels of compliance and, thereby, a valuable contribution to the shaping of public policy.

Bob Collins
Chairperson

1 Introduction

This is the ninth in a series of reports by the Policing Authority, prepared for the Minister for Justice, on oversight and assessment of the application of the COVID-19 Regulations by the Garda Síochána.

In light of the changing nature of the situation and the consequent effects on policing, Section 2 outlines the recent, key developments in the Government's response to COVID-19 and its implications for the Garda Síochána. Section 3 provides a brief assessment of the use of powers by the Garda Síochána during the public health emergency and exhibits related data provided by the Garda Síochána. Section 4 presents findings from the Authority's ongoing engagement with stakeholders to assess the challenges they face during the pandemic and the interactions which take place between those who they represent and the Garda Síochána.

2 Recent Developments

As of the last report, all counties had been moved to Level 3 on the National Framework with increased restrictions on travel outside of county boundaries, gatherings, events and pubs and restaurants. A gentle approach to enforcing these restrictions was adopted with no additional enforcement powers provided to the Garda Síochána, which instead relied on the first three 'E's of engage, explain and encourage.

On Wednesday 21 October, amidst increasing numbers of COVID-19 cases, the country was moved into Level 5. While it allowed for more exceptions to the initial lockdown of 8 April to 8 June, it resulted in general restrictions of movement to within 5km of a person's home, closure of many businesses within segments of the retail and hospitality industry, and further restrictions on events and gatherings, including house parties.

The move to Level 5 was accompanied by a move to return enforcement powers to the Garda Síochána by way of fixed penalty notices, through the Health (Amendment) Bill 2020. This was signed into law on 25 October. However, based on engagement with the Commissioner at the Authority meeting on 28 October, there is still some work required to actually implement the system of fines and it may be some time before a Garda member is able to issue a fine for a breach in restrictions.

While these new powers have yet to come into force there has been increased policing activity in terms of operation Fanacht checkpoints, ongoing outreach to vulnerable persons and victims of abuse through Operation Faoiseamh, and continued visits to licensed premises through Operation Navigation.

However, there has been added complexity through the increased remit in what is counted as "essential retail" with some retailers attempting to stay open by stocking items which are deemed essential while still selling items which are not deemed essential, and confusion as to what products are essential. This has created an addition avenue for the Garda Síochána to police which is not solely a resource challenge but also a challenge to the consistency in policing, given lack of definition and degree of interpretation in this area. The policing effort in border counties also presents challenges with variances between restrictions there and those which are in place in Northern Ireland. Lastly, the policing of protests is an ongoing challenge for the Garda Síochána, particularly with respect to those protests against the use of facemasks and the COVID-19 restrictions

themselves. The facilitation of police protests in the context of the pandemic remains a risk. If not properly managed, it presents the potential for negative engagement between protestors from different sides and between protestors and Gardaí.

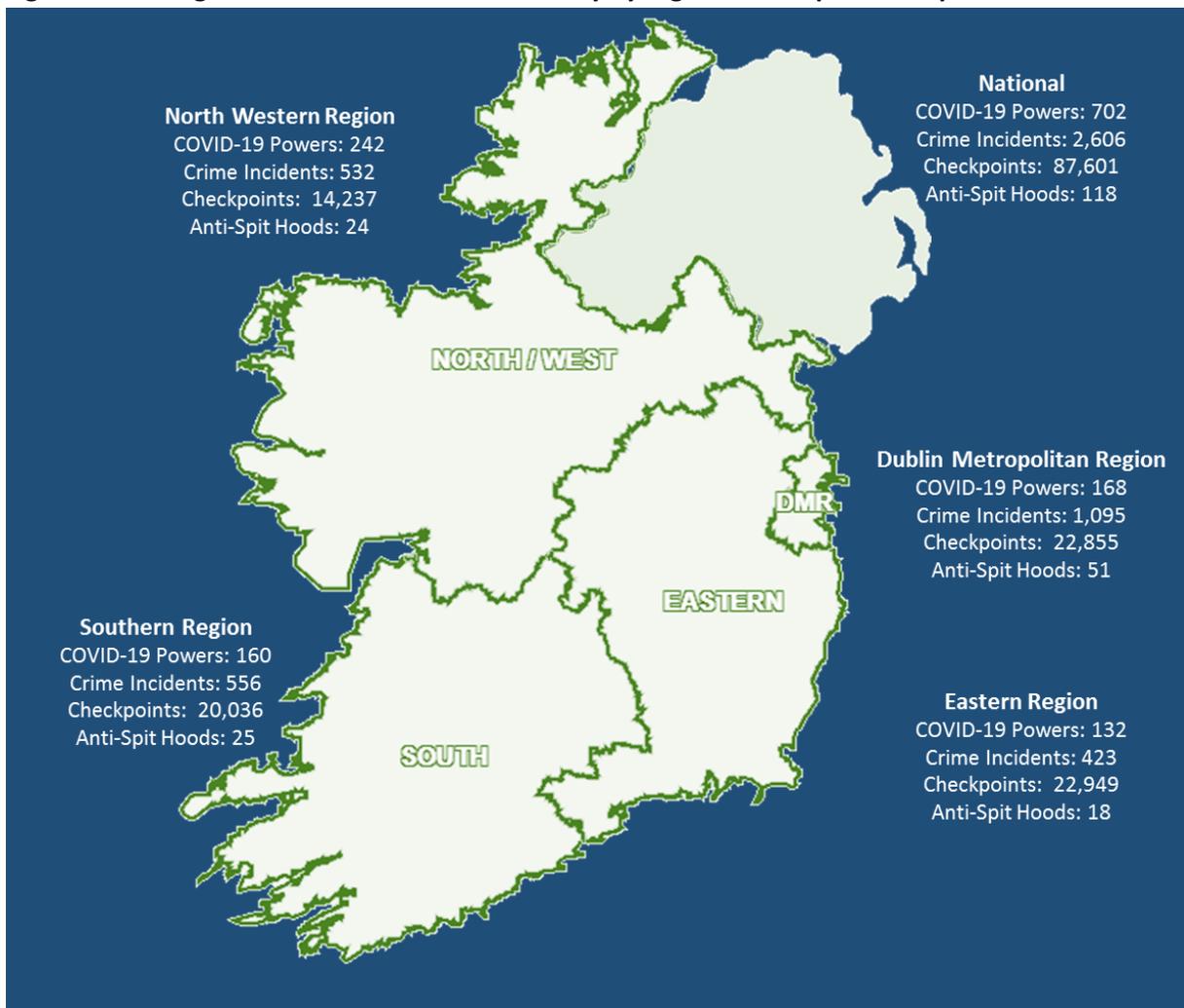
During the Authority meeting on 28 October, the Commissioner outlined this complex picture of what policing entails in the current environment and the extra pressure on Garda resources.

3 Policing COVID-19 in Numbers

3.1 Overview

The latest data available from the Garda Síochána covers up until 31 October in terms of enforcement and to 25 October in terms checkpoint activity, and thus only covers the early days of Level 5 restrictions. As such it does not yet fully capture the increased policing effort which has been delivered in line with the new restrictions. That accepted, there is still an increase in the number of incidents, primarily related to the Level 3 restrictions which were implemented earlier in October and a number of incidents related to the policing of retail. Since the last report to the Minister on 9 October, there have been 103 newly reported incidents where enforcement powers under COVID-19 Regulations were used. In addition to this there have been 6 additional instances where anti-spit hoods have been deployed, approximately 17,900 additional checkpoints conducted, and in excess of 12,100 further visits to licensed premises.

Figure 2: Policing COVID-19 in numbers - summary by region for the period 8 April to 31 October¹



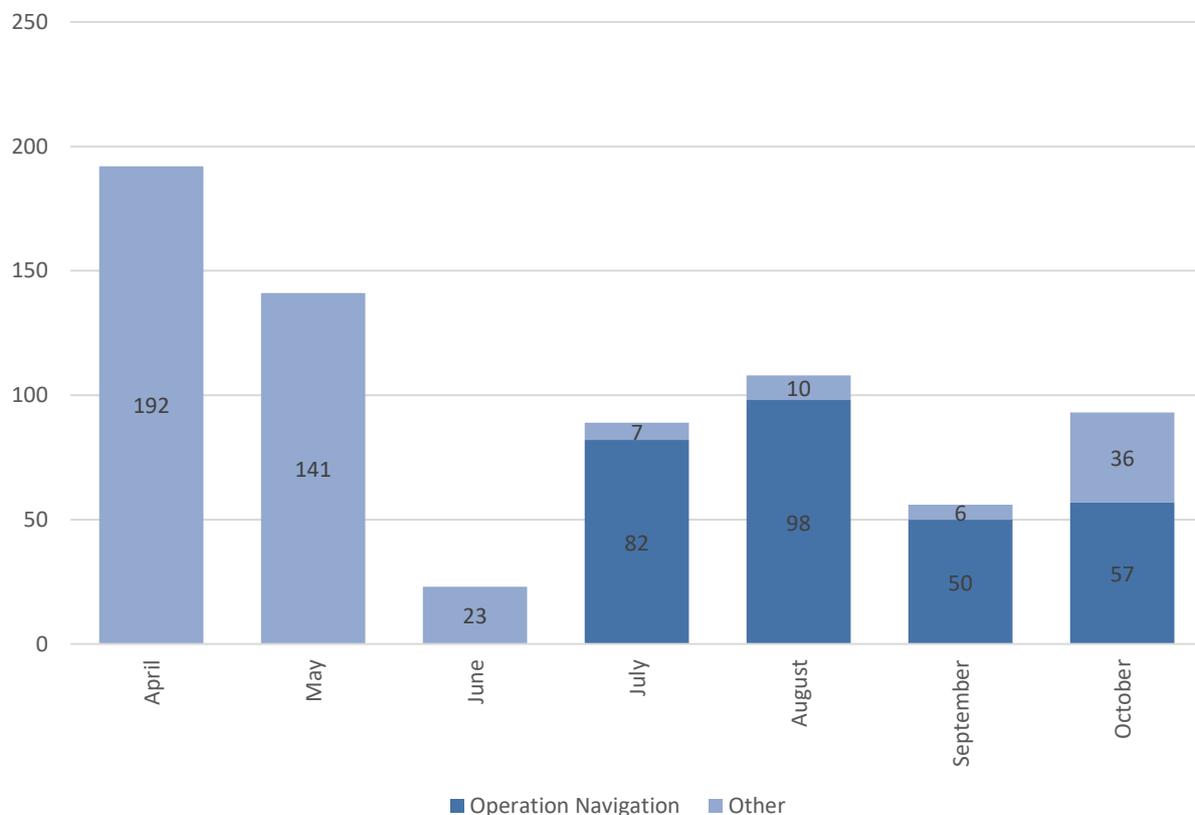
¹ With exception of checkpoints and crime incidents, all data refers to 8 April to 31 October. Crime data refers to 8 April to 24 October. Checkpoints refer to periods 11 May to 2 August and 10 August to 25 October only. Data are indicative only.

Since 8 April the Garda Síochána have exercised powers under COVID-19 regulations, 702 times. The 103 additional incidents since the last report have been primarily as a result of the outcomes of Operation Navigation and the inspection of licensed premises. Since the commencement of this operation on 3 July, there have been 287 incidents related to the operation. In this context, the Garda Síochána have reported over 50,000 visits to licensed premises, of which approximately 60% were recorded as being closed. Inspections have seen an increase since the last report to the Minister with approximately 3,900 carried out over the Bank Holiday weekend of 23 to 26 October. However, this remains considerably lower than the 8,000 inspections in the first weekend of the operation. With the move to Level 5 restrictions, approximately 80% of licensed premises, which were visited by the Garda Síochána between 23 and 26 October, were recorded as being closed.

Excluding Operation Navigation, there have been 394 incidents where powers under the COVID-19 regulations were used, of which 353 relate to breaches which occurred during the initial lockdown and subsequent policing of the pandemic up to 28 June. Since then the Garda Síochána have reported the following;

- 8 incidents relating to breaches regarding face coverings;
- 5 incidents relating to breaches regarding international travel;
- 11 incidents of suspected breaches of regulations by retailers and,
- 37 incidents relating to other breaches (for example, organising events).

Figure 3: Number of times powers under the COVID-19 Regulations have been used per month from 8 April to 24 October



Out of the 675 incidents the North Western Region accounted for 242 (approx. 35%) of total incidents since 8 April and remains the region with the highest number of such incidents. Galway

and Cavan/Monaghan remain the two divisions with the highest number of incidents. However, the examination of data at station level does not identify any issues of the use of powers being centralised in one locality.

As noted in previous reports, the Authority had requested that the Garda Síochána provide a disaggregation of which of the five powers were used in the 702 incidents and this has not yet been provided.

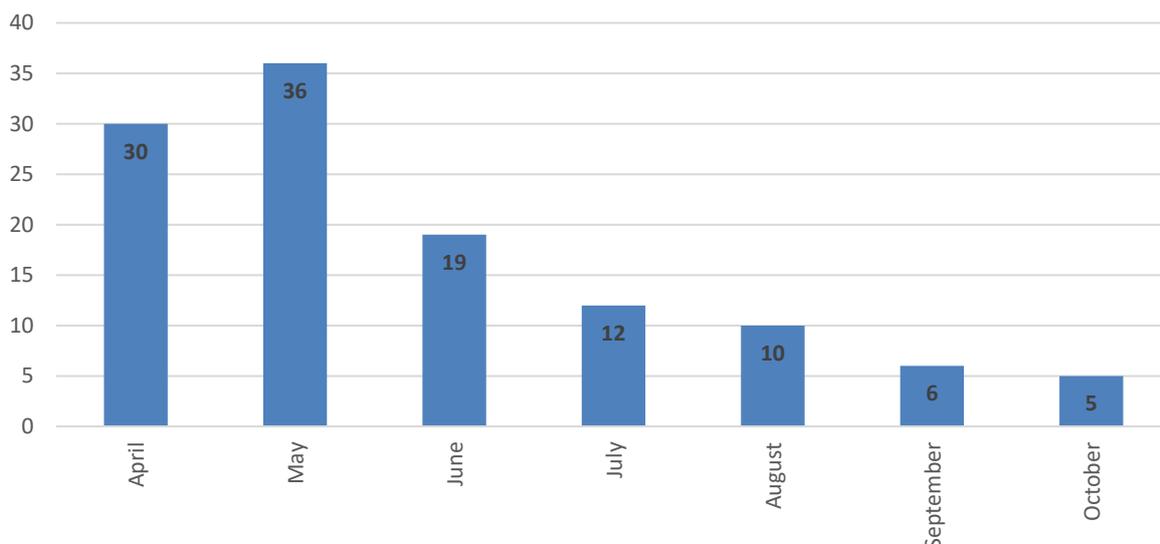
In terms of crime incidents recorded as a result of COVID-19 policing up to 24 October, there has been an increase of 284 since the last report and, as a result, no new significant trends have emerged.

A complete dataset for checkpoints has not been reported for all weeks since the start of the policing response to the public health emergency. The data provided by the Garda Síochána covers the period 11 May to 2 August and 10 August to 25 October. Since the last report, checkpoint activity has increased significantly in all regions, driven by nationwide Level 3 restrictions and the recommencement of Operation Fanacht with approximately 6,300 checkpoints conducted in the week 19-25 October. While this represents a significant increase of activity since the last report, it is less than the volume of checkpoints in May, when the Garda Síochána carried out in excess of 10,000 per week.

3.2 Use of anti-spit hoods

Since the last report to the Minister, there have been 6 additional incidents recorded, bringing total uses to 118 since their introduction.

Figure 4: The number of applications of anti-spit hoods by the Garda Síochána by month, 12 April to 31 October



An assessment of the 118 incidents demonstrates:

- They have most frequently been used in the Dublin Metropolitan Region, which accounted for 51 of the incidents.

- Public Order offences accounted for 54 of the incidents while assault accounted for a further 34.
- In 100 incidents these were used on males, while the remaining 18 relate to use on females.
- To date anti-spit hoods have been used 6 times on children under the age of 18 years, with none used on children since our last report.

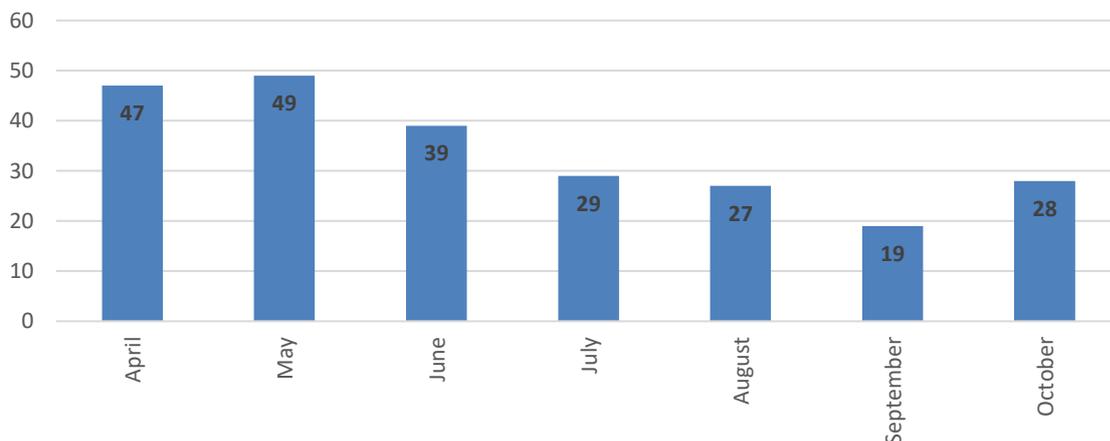
The Authority has received more detailed reports for 111 of these incidents. Additional information from these more detailed reports shows:

- In 16 incidents the garda member perceived the detainee to have obvious signs of a mental health issue. This was not the case in 65 incidents and it was unspecified in a further 30 incidents.
- In 1 incident the garda member perceived the detainee to have obvious signs of a learning disability. This was not the case in 79 incidents and it was unspecified in a further 31 incidents.
- In 74 incidents the garda member perceived the detainee to demonstrate obvious signs of intoxication. This was not the case in 19 incidents and it was unspecified in a further 18 incidents.

3.3 Spitting and Coughing Incidents

The Authority continues to express its condemnation of verbal and physical abuse directed at garda members and staff, particularly during these challenging circumstances. The number of assaults by spitting or coughing at members is illustrated in Figure 5 below. There have been 31 additional incidents recorded since the last report to the Minister, bringing the total to 237 since 12 April.

Figure 5: Monthly breakdown of the number of assaults on garda members who have been coughed on or spat at, 12 April to 31 October



4 Stakeholder Engagement

4.1 Outreach

The Authority's engagement with organisations and groups has continued. Most recently the Authority has engaged with organisations representing young people and students, Travellers and representative organisations for businesses critically impacted by the restrictions as well as motorists. The time given by these organisations to discuss their experience of policing during the pandemic is greatly appreciated. The response to COVID is not static or uniform and it has been important to track how policing has responded as the restrictions change, impacting as it does on the normal rhythms of work and life, and what the experience of that policing response has been for communities.

4.2 Community Engagement

Communities have again expressed appreciation for the responsiveness of the Garda Síochána in meeting the needs of members of the community as the country moved from level 3 or 4 to level 5 restrictions. One community group spoke of the impact, in terms of the sense of security and confidence that the 'minutes on the doorstep' that Gardaí are giving, especially to older people, has delivered. They spoke of the increased collaboration happening at local level to identify need noting that this continued in the period between the initial 'lockdown' and the introduction of level 5 restrictions. This strengthening of the local community infrastructure around the identification of need in the community is something that they hope will endure as a practice beyond COVID.

Groups engaged with continue to reference the Garda Síochána's use of the 4 E's – engage, explain, encourage and enforce. The general sense provided is that this approach has and continues to be sensibly, fairly and consistently applied. Those spoken to, are aware of the powers given to the Garda Síochána during this time and there is general satisfaction that they are being used as necessary and proportionate. Groups remain keenly alert however, to the potential for discriminatory use or the perception of discriminatory use of the powers, and cautioned as to the impact any such perception would have on trust in the police service. In many instances this is premised on the relationships that existed between groups in the community and the Garda Síochána pre COVID-19. If the perception exists that a cohort within the community is typically treated differently to the general public, then the expectation exists that this will also be the case in terms of policing of the COVID restrictions.

Students and young people have expressed the expectation that they will be policed more stringently during this time. Those engaged with reported not being concerned with the additional powers per se but are concerned that they will be imposed more stringently on students.

Reference was made to the need for clarity and better communication with students as to the arrangements that exist between the Garda Síochána and some third level institutions. These relate to the garda presence on campus but also arrangements with some third level institutions in relation to the confiscation of student cards by the Garda Síochána who then hand these cards over to the college authorities. The college or university can typically commence a disciplinary procedure with the student involved, which can result in a fine. Such agreements are not uniform across the country and media narratives and a lack of clarity for students as to whether their institution is party

to such an arrangement and how that process works, was reported as not helpful. Examples of positive engagement between student groups and local Gardaí were given and the positive impact of visible policing as an effective deterrent was emphasised.

4.3 The 4th 'E'

Groups representing various businesses critically impacted by the restrictions are generally positive in terms of the approach taken by the Garda Síochána to inspection and enforcement of the regulations. Gardaí are reported as having taken a graduated approach culminating in the use of enforcement, where necessary. Inspections have been carried out sensitively and in the main there has been good cooperation between the various sectors and Gardaí. Groups spoke to the necessity and importance of visible enforcement where there is a lack of adherence with the regulations.

There was some concern that there have been instances where Gardaí might have appropriately moved to enforcement but had not. There is acute awareness amongst businesses of the degree to which others are adhering or not to the regulations and an alertness to the degree to which errant behaviour is being identified or not by Gardaí. There is a sense that while they may be isolated, there have been instances that speak to some inconsistency in the policing response in this regard. The view was expressed that consistent enforcement is important to incentivise adherence, give confidence to the public that businesses are taking their safety seriously but also to ensure that there is a sense of a level playing field for businesses. Visible and consistent enforcement is regarded as important for the credibility of the efforts being made by businesses to operate within the restrictions.

Some concern was expressed in terms of a perception that there is insufficient Garda visibility in urban areas at a time when many commercial premises are now closed. Business owners have expressed some concern regarding the security of their premises or of staff that may be present intermittently.

In terms of consistency, the groups expressed sympathy for what they perceive as the difficulties for Gardaí in translating the breadth and complexity of the restrictions on paper into inspection and enforcement practices in various types of businesses. The representative groups reported some confusion and inconsistency in the approach to inspections amongst Gardaí particularly in the early weeks and this, they believe, could have been avoided with greater initial engagement with the industries involved to work through how the regulations would be interpreted. The depth and level of engagement between the various industries and the Garda Síochána appears to differ across the country.

Groups believe that in the absence of established forums for engagement, an opportunity was missed to create an understanding of how the regulations might be implemented and what would be looked for in an inspection to give assurance as to their implementation. Some comment was also made that there was inconsistency in what Gardaí were looking for when visiting premises, with some Gardaí seeking to be assured that not only the regulations were being adhered to but that also guidelines, that were not mandatory but advisory, were also being implemented. The groups

spoken to had sympathy for the complexity of the task given to the Gardaí, appreciation for the manner in which it was being undertaken and a strong sense of the importance of enforcement.

4.4 Tone of Policing

The tone with which policing has been undertaken during the COVID period and the positive reaction to that tone from communities, has been referenced in earlier Authority reports. It has continued to be a theme in engagements with stakeholders. Its importance is not superficial. It is emerging in engagements with stakeholders as an important element that can influence how communities and individuals chose to respond to what were typical daily activities being policed and circumscribed during this time.

Checkpoints are a very visible form of policing and one which can engage significant numbers of people, sometimes repeatedly. The views of motorists, as represented and expressed by one organisation, speak to the importance of tone. The organisations is aware of very few complaints and research it has undertaken suggest that while the checkpoints may impact negatively in terms of delays, especially for those who are on necessary journeys, the reason and rationale for their existence is understood and the tone of engagement appreciated.

Appendix 1 – Graphical summary of certain policing activities

Figure 6: Reported use of COVID-19 policing powers by garda Division, 8 April to 31 October, 2020



Figure 7: Number of crime incidents associated with COVID-19 policing activities by region, 8 April to 24 October, 2020

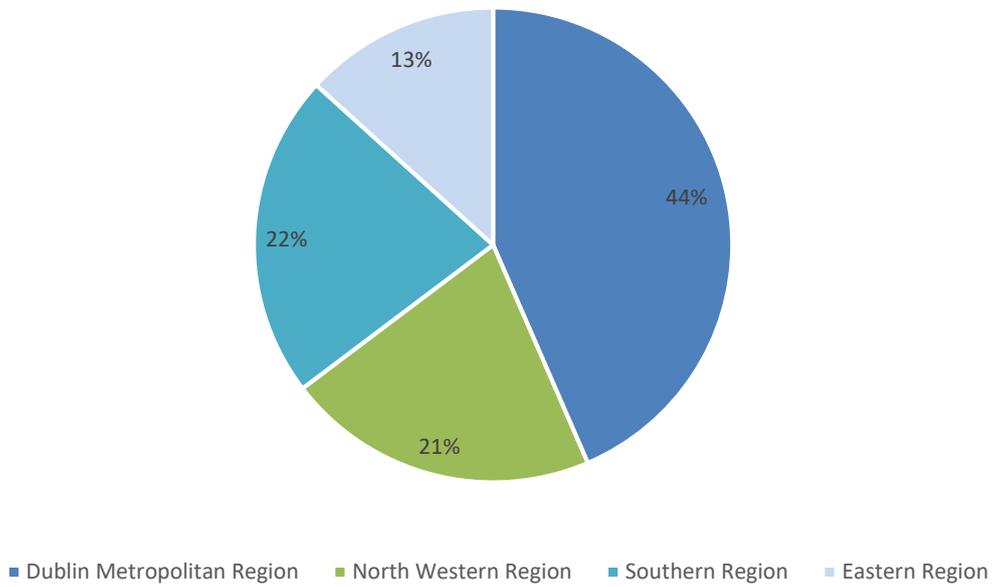


Figure 8: Checkpoints carried out by region, 19 to 25 October, 2020

