



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**

11 September 2020

Contents

Chairperson’s Foreword.....	1
1 Introduction	2
2 Recent regulations	2
3 Policing COVID-19 in Numbers.....	4
4 ‘The Double Pandemic’ — Operation Faoiseamh.....	6
5 Commentary on Some Key Oversight Themes	7
5.1 Use of Powers and Use of Force	7
5.2 Community Engagement and Service to Vulnerable Groups	9
5.3 Wellbeing of Garda Members and Staff	9
5.4 Policing to Protect and Respect Human Rights.....	10
Appendix 1 – Graphical summary of certain policing activities.....	11

Chairperson's Foreword

This report from the Policing Authority to the Minister for Justice and Equality resumes the sequence of reports on the Garda Síochána's use of powers under the emergency legislation and related regulatory frameworks following an interruption to mark the August period. But, while the reporting was suspended, the oversight work continued and its further fruits will be reflected in subsequent reports.

Recent months have seen a shift in tempo and focus in the management of the health emergency. That has been reflected in the nature and application of statutory regulations. The increased freedom of movement and the ending of the penal provisions, insofar as the great majority of people are concerned, marked a significant change. However, the reality of the COVID-19 threat has not diminished. And neither has the extent of the challenge for the Garda Síochána in its vital work of advising and assisting the public. And the changes in regulations, the intensity of their application in a number of counties and the impending enactment of new legislation will have a cumulative impact on the policing task.

Alongside the work related to the health emergency there is the continuing task of detecting and disrupting criminal activity and protecting the public from the many attempts to take advantage of people's vulnerability in these times. That must not be forgotten.

One of the primary purposes of these reports is to reflect the statutory oversight by the Policing Authority of the Garda Síochána's use of new powers. Once again, the Authority emphasises the importance of being able to offer the Minister and the public as much detail as possible in its reports. Any use by Gardaí of new powers should be capable of being recorded. The Authority has confidence in the capacity of Garda members to discern when a new power is being exercised and to record it accurately. That confidence is enhanced when the range of such powers has been narrowed. This report notes the relatively low level of incidents since the last report, while recognising the significance of each such event. It also provides the cumulative total of incidents, as well as other breaches of the law detected during the policing of the health emergency, since April and represents the regional distribution of both.

This report also explores the continuing work of the Garda Síochána through Operation Faoiseamh. The insights through this engagement with voluntary and statutory agencies are invaluable. They offer a vivid sense of the real-life experiences of people and of the reality of vulnerability. They also give a clear picture of the potential for good in the work of each and every Garda member and they demonstrate the extent of the impact of that work. They show, too, the depth and quality of the appreciation felt by those most affected. And, as has been noted before, they point the path to a different future. That work of engagement will be further reported on in later reports.

The Authority notes again its abiding concern for the wellbeing of Garda members and Garda staff. It records its continuing abhorrence of assaults on and offensive behaviour towards Gardaí. It also expresses again its concern that the public may have expectations of what Gardaí can or should do in circumstances where they do not have the relevant powers or they are not the relevant authority. All these matters will continue to be the subject of detailed discussion with the Commissioner and his senior colleagues and the focus of attention in future reports.

Bob Collins
Chairperson

1 Introduction

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

While the context and nature of interactions between the Garda Síochána and the public has changed, there has been a sustained level of policing activity in relation to COVID-19. The opening of licensed premises on 29 June, on condition that they serve a substantial meal, was quickly followed by the commencement of Operation Navigation on 3 July. The operation involved a significant number of inspections of licensed premises and enforcement of these regulations. A rise in cases in three countries prompted localised restrictions from 7 August, lasting until 21 August for Laois and Offaly and until 31 August in Kildare. While this did not involve a return to penal provisions for the general public and subsequent enforcement by the Garda Síochána, it did involve increased Garda checkpoints and a return to the first three E’s — Engage, Educate and Encourage — in an effort to reduce non-essential movement or mixing of people. Some of the key regulations impacting on the work of the Garda Síochána in this regard are summarised in section 2 below.

The data reflecting the level of this enforcement and related activities is briefly presented in Section 3 of this report, with an emphasis on more recent developments.

While the activities of the Garda Síochána have proceeded, so too has the Authority’s qualitative assessment of policing through outreach and engagement with representative groups of segments of society. The Authority will be reporting on the findings from the latest series of engagements in its next report. In this report we concentrate on issues arising in the context of Operation Faoiseamh in Section 4.

Finally, some issues which have emerged during the policing of this public health emergency are revisited in Section 5.

2 Recent regulations

Following the revocation of certain penal provisions and easing of restrictions from 8 June, the powers granted to the Garda Síochána were reduced. However, a number of regulations and penal provisions remain, which are set out in Table 1 below. These specify where Garda members may resort to enforcement and the circumstances as to where they are restricted to the first three E’s (Engage, Educate and Encourage). This demonstrates the general shift of enforcement of the activities of individual members of the public to enforcement of business activities, which is reflected in the numbers of incidents reported in this document.

Statutory Instrument	Description
S.I. 181 of 2020 (24 May)	International travellers to the State required to provide information on their location during their stay within the State and non-compliance with this is a penal provision.

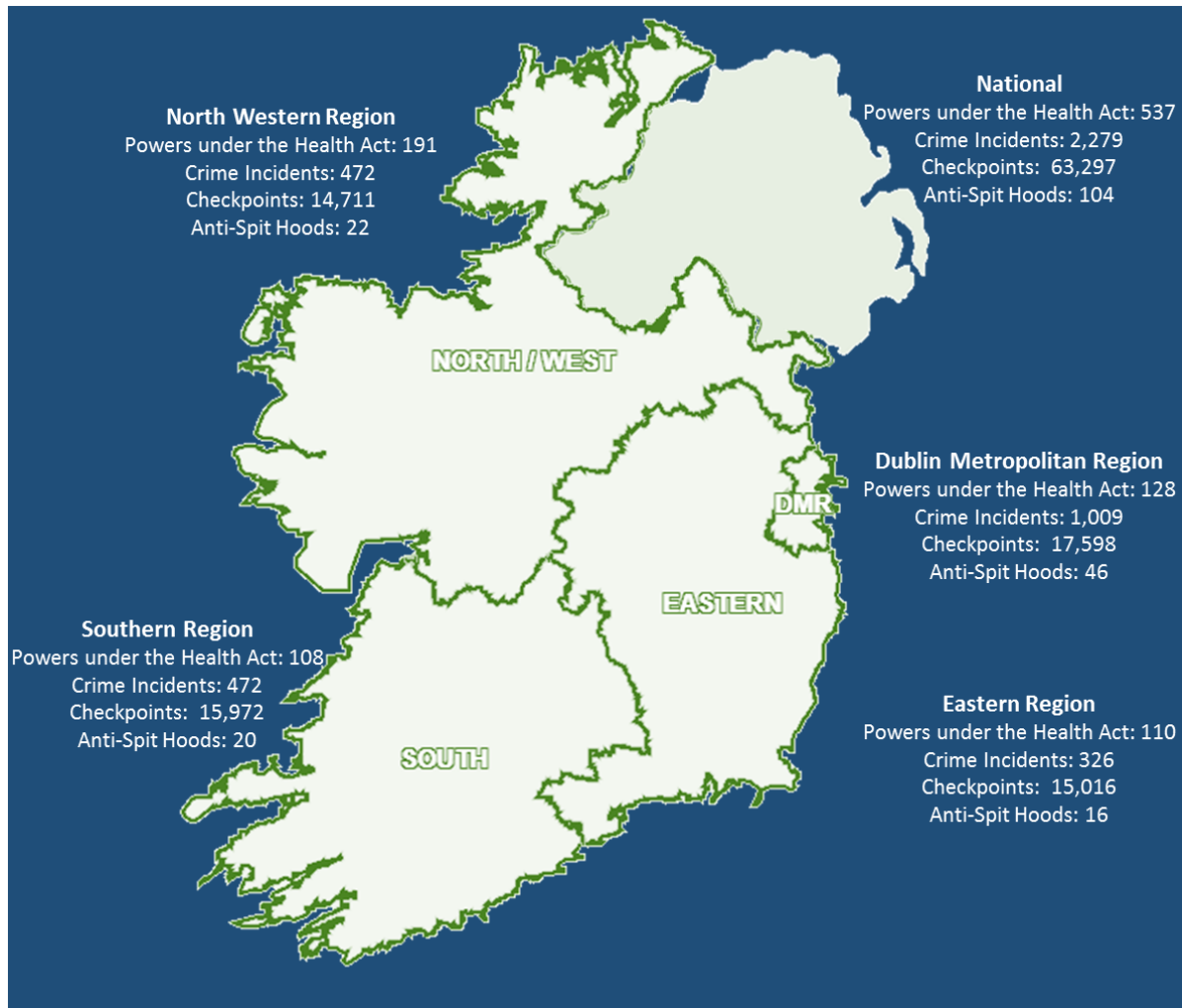
Statutory Instrument	Description
S.I. 206 of 2020 (8 June)	Introduction of a limited range of additional penal restrictions focussed on the organisation and undertaking of events, and access to business premises.
S.I. 234 2020 (26 June)	Allowed pubs serving a substantial meal and restaurants to open with certain restrictions and penal provisions.
S.I. 244 of 2020 (13 July)	Setting out regulations surrounding the wearing of protective face coverings on public transport. Failure to comply with the regulations is a penal provision providing the Garda Síochána with the additional powers referred to earlier.
S.I. 295 of 2020 (On 11 August)	Temporary restrictions of movement in Kildare, Laois and Offaly, but did not extend to incorporate penal provisions.
S.I. 296 of 2020 (11 August)	Introduction of mandatory face coverings to be worn in certain premises and businesses by all persons who did not have reasonable excuse, as specified in the Instrument.
S.I. 326 of 2020 (4 September revoking S.I. 234 above)	It placed restrictions on private gatherings, events, licensed premises and other premises not selling alcohol. This contains penal provisions for event organisers, licensed premises and premises which do not sell alcohol, who are in breach of the restrictions. It also places obligations on those licensed premises which are open and serving substantial meals, to maintain accurate records of customers' arrival and departure times. The penal provisions do not extend to private gatherings such as house parties.

3 Policing COVID-19 in Numbers

While the easing of some restrictions and revocation of a number of the penal provisions set out in S.I. 121 of 2020 on 8 June, initially resulted in a decline in the number of new incidents relating to the specific policing of COVID-19, there has been a more recent increase in both enforcement and policing activity in the wake of Operation Navigation and localised restrictions, respectively. This section presents an overview of operational data provided by the Garda Síochána for the period 8 April to 29 August. A summary of this data is presented in figure 1, at national and regional levels.

Overall, since the last report to the Minister on 17 July, there have been 184 newly reported incidents where enforcement powers under the Health Act 2020 were used. In addition to this there have been 18 additional instances where anti-spit hoods have been deployed and in excess of 8,000 checkpoints conducted.

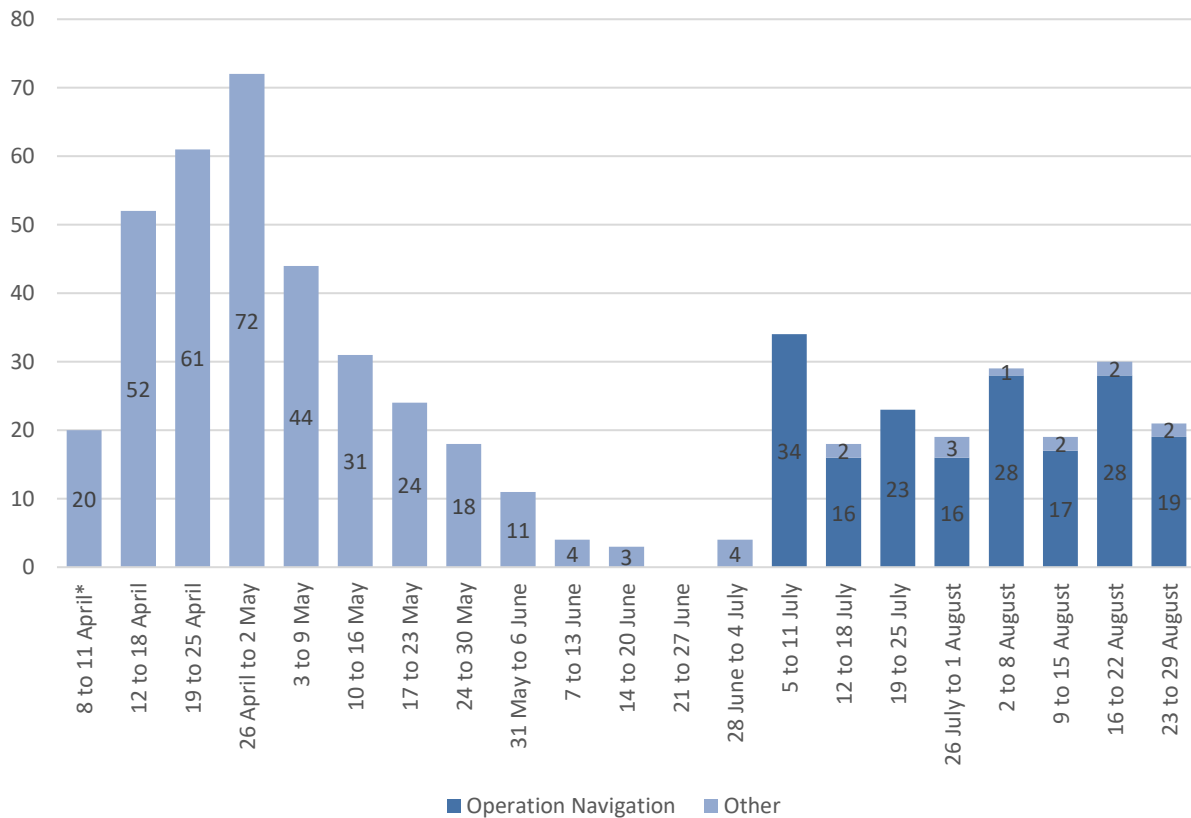
Figure 1: Policing COVID-19 in numbers - summary by region for the period 8 April to 29 August¹



¹ With exception of checkpoints, all data refers to 8 April to 29 August. Checkpoints refer to periods 11 May to 2 August and 10 August to 30 August only. Data is indicative only

Since 8 April the Garda Síochána have exercised powers under the Health Act 1947, 537 times. The 184 new incidents have been primarily as a result of the outcomes of Operation Navigation and the inspection of licensed premises to ensure that they are compliant with the regulations. Since its inception on 3 July, there have been 181 incidents related to the operation. In this context, the Garda Síochána have reported over 30,000 visits to licensed premises, of which approximately 60% were recorded as being closed. In addition to Operation Navigation, there have been a small number of other incidents which primarily relate to face coverings or international travel.

Figure 2: Number of times powers under the Health Act 2020 have been used per week from 8 April to 29 August



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

The North Western Region accounted for 191 (35%) of total incidents since 8 April and remains the region with the highest number of such incidents. Galway and Cavan/Monaghan are 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 537 incidents and this has not yet been provided.

In terms of crime incidents recorded as a result of COVID-19 policing, there has only been an increase of 72 since the last report and, as a result, no new significant trends have emerged.

Regarding checkpoints, the Garda Síochána has not been able to provide a complete dataset. The data provided covers the period 11 May to 2 August and 10 August to 30 August. This means no data is available for the first few days of the localised restrictions in Kildare and Laois/Offaly Divisions. As per the last report, there are over 1,000 checkpoints carried out nationally each week, compared to an average of approximately 10,000 per week during the month of May. In recent weeks the majority of these have been carried out in the Eastern Region.

4 'The Double Pandemic' — Operation Faoiseamh

Organisations working in the area of domestic abuse have experienced a steady increase in the number of calls since May, with many victims presenting for the first time. Referencing the *'double pandemic'* of domestic abuse and COVID-19, organisations continue to be uniformly positive about Operation Faoiseamh. The positivity is not just in terms of the additional resources put into this area of policing but also the awareness and perceived *'shift in practice'* within the Garda Síochána organisation. There has been what organisations have called a *'paradigm shift'* in the approach to domestic abuse by the Garda Síochána. While acknowledging that very good work was already being undertaken by the National Protective Services Bureau and in certain areas around the country, the shift refers to an increased pervasiveness of good practice.

Reference is made to a greater and more nuanced understanding amongst Gardaí of the dynamics of domestic abuse and coercive control. Specifically, that Gardaí increasingly understand that there is no one type of victim or perpetrator and no one set of perpetrator or victim behaviours and that there is a greater alertness to circumstances in which domestic abuse or coercive control may be occurring. Examples were given of coercive control being identified in the context of organised crime investigations. Organisations cited a perceived improvement in the standards of statement taking, greater communication with victims to explain how to press charges and how the process then works. Gardaí are *'sticking with the process'*. Specific reference was made to Gardaí following up with victims who, for reasons of safety, may have moved out of that policing district, or linking in with Gardaí in the victim's new district to make sure they were aware of the victim's situation. This is resulting in greater confidence amongst victims in the safety measures outlined to them. Greater confidence to report was also cited by the community groups engaged with who have seen an increase in the incidences of domestic abuse with high numbers of new victims coming forward. These groups were similarly very positive about the response being given by the Garda Síochána. One group remarked that the Gardaí were *'knocking on the doors'* where they knew abuse to be an issue and *'reaching in'* and then linking effectively with the support organisations in their area.

The organisations spoken to believe that training has made a significant difference but so too has leadership at local level. The roll-out of the Protective Services Units and the technical expertise and *'passion'* of the National Protective Service Bureau were acknowledged as significant factors but examples of what was described as *'incredible policing'* were cited across the country. These were not limited to areas with Protective Service Units in place or did not always involve Gardaí assigned to this area of policing. Local leadership was cited as critical in terms of the policing culture around domestic abuse — how it is spoken about and policed — as *"seniors hold the practice"*. Strong leadership impacted the approach, consistency and the relationships established with local support

services. Tangible examples of this type of leadership were given from, but not limited to, Sligo, Cork, Mayo, Limerick and Dublin.

Concerns remain however regarding consistency in relation to the policing of breaches of orders but also the policing response where the alleged perpetrators are from within the *'legal family'*. There are concerns regarding sharing of information with perpetrators about the victim in these instances. Organisations stated that they believe there is no tolerance for this behaviour within the senior levels of the organisation but that it persists at local level in some areas. Concerns were expressed too as to the level of support available when the victim is a member of the Garda Síochána.

The key issue raised by the organisations working in this area is whether the effort, attention and focus on the policing of domestic abuse will diminish as the pandemic abates or whether the current approach will be normalised as policing as usual. There is no sense at present that there is any diminution of focus but this is something that organisations are monitoring. In addition to the concerted focus placed on domestic abuse, the accompanying injection of resources was significant and reference was made to the practical impact that even additional vehicles made to the ability to respond to calls. There is a strong sense that the impact and success of Operation Faoiseamh needs to be evaluated, not just by the Garda Síochána and support services in isolation but also with an element of co-evaluation. The experience has the potential to deliver significant learning as to what elements of the response proved effective but also to capture the key elements of the observable *'shift'* in practice, so that this may also be normalised.

5 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.

As part of its oversight the Authority has throughout the emergency period asked for and the Garda Síochána has facilitated the attendance by Authority staff at a range of internal meetings and briefings across all levels of the organisation. Attendance at these meetings and briefings has served to enrich the coverage and depth of the oversight work and has allowed the Authority to assess the proportionality and justification of Garda activities.

5.1 Use of Powers and Use of Force

Reporting on use of emergency powers

The frequency of reporting by the Garda Síochána has been reduced from weekly to monthly, with the exception of Operation Navigation, for which Garda activity and breaches of regulations by licensed premises are reported weekly, while the use of anti-spit hoods are reported individually.

The frequency of reporting will be monitored to ensure that it is sufficiently agile to allow for appropriate information to be available both to the Garda Síochána and to the Authority to fulfil its oversight functions.

The Authority's concerns remain with regard to the Garda Síochána's capacity to accurately record and report a breakdown of which specific powers were used when it comes to enforcement of the regulations among the general public. It is also unfortunate that Garda activity, in terms of checkpoints, was not recorded at the commencement of temporary restrictions in Kildare, Laois and Offaly. As such the full breadth of Garda activity and enforcement has not been adequately captured during the public health emergency.

Use of anti-spit hoods

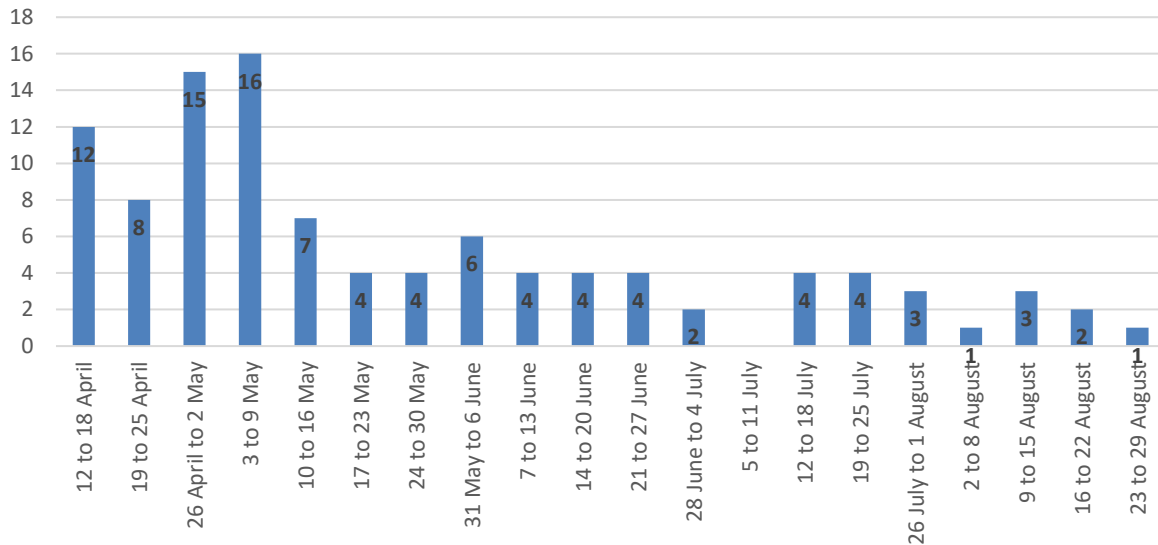
The Authority has expressed its concerns over the introduction and continued use of anti-spit hoods and again reiterates that these should only be used during the current public health emergency.

Since the last report to the Minister, the Garda Síochána has commenced its evaluation of the use and management of anti-spit hoods to which the Authority has provided a detailed submission. The Authority's opposition to the use of spit-hoods has been reiterated and it has been submitted that the evaluation should only be retrospective in nature and should not be used as a justification for the continued use of anti-spit hoods beyond the public health emergency. While the welfare of Garda members is a priority for the Authority, there has been no evidence presented that these anti-spit hoods provide effective protection for members particularly in regard to preventing the transmission of COVID-19. In this context, the Authority contacted the distributors of the anti-spit hoods directly. The distributors stated that the anti-spit hoods have not been tested for their capacity to prevent airborne or respiratory droplets which spread COVID-19. Furthermore, it was confirmed that these are the same model of anti-spit hood which is used by the PSNI, which Amnesty International reported as being "not an effective means to prevent COVID-19".

Beyond this, there are many human rights concerns in relation to the use of these instruments. Specifically the right to human dignity, the right to life, the right not to be subject to torture, cruel, inhuman and degrading treatment, and the right to a private and family life, which encompasses the right to physical, moral and psychological integrity, are all relevant in assessing anti-spit hoods.

Furthermore, the use of anti-spit hoods on vulnerable individuals is an ongoing source of concern. The Authority has expressed its opposition to the use of these on children and since the last report, further such incidents have occurred. It is also noted that since their introduction in April a number of incidents of use have involved people with perceived mental health issues who are considered to be vulnerable.

Figure 3: The number of weekly applications of anti-spit hoods by the Garda Síochána, 12 April to 29 August



- Since 12 April, anti-spit hoods have been used 104 times, with 18 of these being recorded since the last report to the Minister.
- They have most frequently been used in the Dublin Metropolitan Region, which accounted for 46 of the incidents.
- Public Order offences accounted for 49 of the incidents while assault accounted for a further 27.
- To date anti-spit hoods have been used 5 times on children under the age of 18 years.

5.2 Community Engagement and Service to Vulnerable Groups

The Authority will be reporting on the findings from the latest series of engagements in its next report to the Minister.

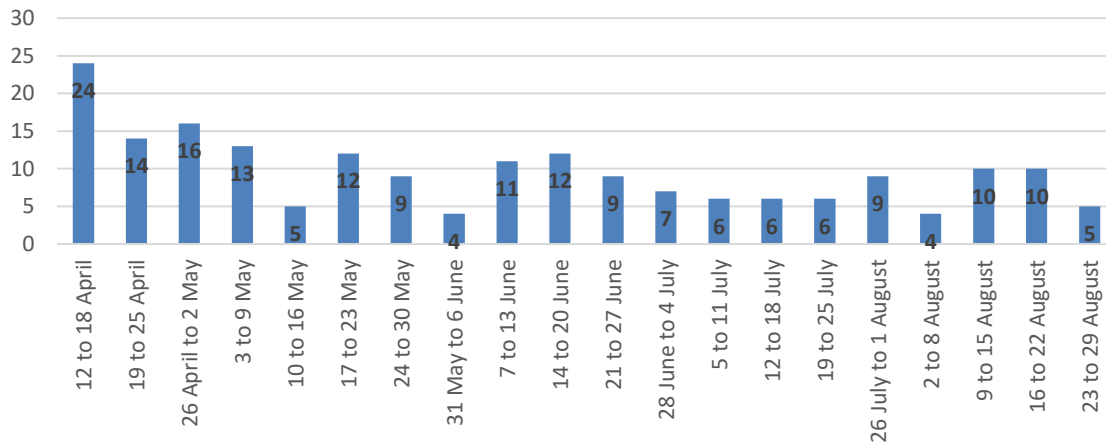
5.3 Wellbeing of Garda Members and Staff

The Authority has expressed its ongoing concern for the welfare of Garda members and staff and issues surrounding this area continue to be discussed with the Commissioner during Authority meetings and reported to the Authority via the Commissioner’s Monthly Report.

Spitting and Coughing Incidents

The Authority continues to condemn the verbal and physical attacks on members which are carried out by a small minority of the public. The number of assaults on members by spitting or coughing at members are illustrated in Figure 4 below. Unfortunately, this has remained a regular occurrence during the policing of COVID-19, with 192 incidents recorded since 12 April and 48 newly recorded incidents since the last report to the Minister. As noted above, the Authority has asked the Garda Síochána to consider the efficacy of anti-spit hoods to protect members against the transmission of COVID-19 as part of the organisation’s evaluation of the use of anti-spit hoods.

Figure 4: Weekly breakdown of the number of assaults on Garda members who have been coughed on or spat at, 12 April to 29 August



5.4 Policing to Protect and Respect Human Rights

The Authority is aware of recent violent confrontations between demonstrators and counter-demonstrators at the anti-mask rally held in Dublin on Saturday, 22 August and allegations that the Garda Síochána pushed the counter-demonstrators back in an attempt to prevent further violence, which had the effect of preventing the counter-protesters from exercising their right to protest. The Authority will explore this issue in more detail with the Commissioner at its meeting in public on 30 September.

Appendix 1 – Graphical summary of certain policing activities

Figure 5: Reported use of COVID-19 Policing Powers by Garda Division, 8 April to 29 August, 2020



Figure 6: Number of incidents associated with COVID-19 policing activities by region, 8 April to 29 August, 2020

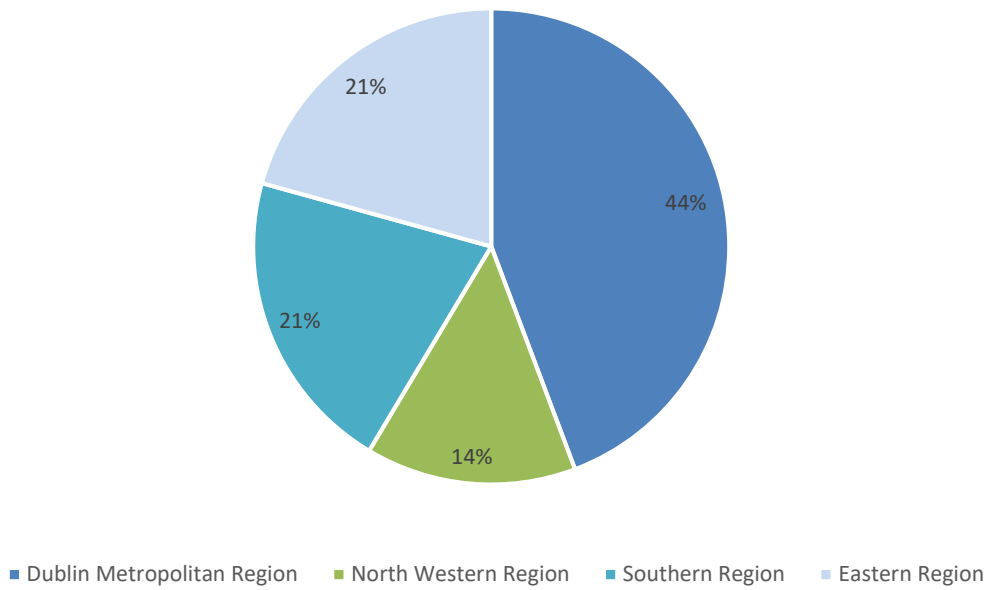


Figure 7: Checkpoints carried out by region, 24 to 30 August, 2020

