



AN TÚDARÁS PÓILÍNEACHTA  
POLICING AUTHORITY

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

18 December 2020

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## Chairperson's Foreword

This report is not a review of the year - but a review of an aspect of something that will forever define the year for very many people across the world. Our response to the reality of COVID-19 has told us a great deal about ourselves, as individuals and as communities. And it has told us and the Garda Síochána a great deal about our policing service and its relationship to all of us. These words will seek to reflect on what we have been told and about what we can learn for the future.

Reference has been made in these pages and in previous reports to the truth that the people of this state enjoy a relationship with a democratically-based policing service that is not universally available and that very many people yearn to experience. We learned how important this is. The breadth and depth of that relationship and the role that such a policing service can play were revealed anew. And this enhanced understanding has given the opportunity to change forever - and for the good - the essence, the quality and the felt experience of that relationship.

The Garda Síochána grasped very early the truth that the restrictions that were intended for the welfare and safety of all would, unwittingly, render many people vulnerable, that the COVID emergency would make some homes more dangerous places and that harm would be done behind closed doors. That was a reality apprehended by many but the early introduction of the Garda's Operation Faoiseamh was a crucial initiative.

Gardaí reached in. They sought out vulnerable people and gave them hope and a sense of greater security. The organisation also reached across. Collaboration with the many organisations that work with people suffering domestic abuse brought together the full range of skills and so enhanced the outcomes for those affected. The seriousness of the organisation's intent is manifested in the continuation of Faoiseamh and the sustained emphasis placed on the awful reality of domestic violence.

We learned again what the Garda Síochána has often said, and what we have always known, that its role goes far beyond law enforcement and that, in its best moments, it can create a sense of security, of confidence and of certainty that a good policing service can help to keep people safe in all their vulnerabilities. That sense of security extends beyond those who are currently vulnerable and reaches to the entire community who understand that vulnerability does not cease to visit us when we cease to be young.

We learned how much the public have welcomed this new community engagement through the warmth of their response and through the eloquent expression of the difference it has made in the comments and analysis of the many organisations with whom the Policing Authority engaged in its oversight of policing during this health emergency.

The concept of community safety was given new life in the past nine months as statutory and voluntary organisations together with the Garda Síochána sought collectively to make a sense of safety a reality for the entire community. There is much to be learnt on how these relationships can best function in an agile, responsive way. And there is much to be reflected on as, in the near future, the shape of the proposed Policing and Community Safety Bill will become clear and the measure will begin its parliamentary process through Dáil and Seanad.

The relationship between a police service and the community is the product of a series of conscious choices by the organisation in terms of its approach and tone. We have seen what a transformation can be wrought by the adoption of such a new tone and a new style of engagement. There is a challenge for the Garda Síochána to ensure that that rich reward is retained, that the new style is

embedded as the permanent way of policing life. This is not a challenge of resources because tone and style are not functions of resources but are an expression of respect and empathy. Numbers can increase visibility but approach and tone can deliver presence and, with that, meaningful engagement and enduring relationships.

We learned that although it may be hard to quantify the benefits of a good relationship with the community it is very easy to measure its effects. The COVID experience told us quite a bit about the importance of the indivisible unity of the Garda Síochána as a national service and as an organisation. There is no hierarchy of contribution or of importance within the organisation. All serve the public equally. Their particular assignments or roles mean they serve in different ways but each individual, of whatever rank or grade, has the potential to make a significant difference to personal, family, community and national wellbeing.

Not everyone has experienced policing in the same way or with the same warmth of response. That is not a source of surprise but it is an important reality that needs to be carefully considered. The significance of the response to the new tone, the new approach tells us something about the adequacy and appropriateness of some other approaches. Ensuring that everyone in the Garda Síochána understands the importance of respect and empathy is important.

There are other lessons to be learnt. The remarkable agility that has been shown in this year could yield benefits in other aspects of the Garda Síochána's life and work, not least in organisational reform. Clarity and consistency of communication are very important. The welfare of all who work in the organisation is, as it always has been, a primary concern. And that work can and does involve real risk of danger. The policy of enforcement as a last resort was well founded and is a solid basis for the future. The approach to the introduction or revision of regulatory frameworks can also build on that foundation. The importance of data - in itself, as a guide to action and as an aid to the framing of public policy - has been amply demonstrated and must be as fully reflected as possible in policing work.

In a year of difficulty for all and of tragedy for so many, the sense of community cohesion has been a source of support and solace. The role of the Garda Síochána in engaging with people and in keeping them safe through its community work and through its work in disrupting and detecting criminal activity was important in very many ways.

As in too many other years, the Garda Síochána will end this year reflecting the loss on duty of a colleague, Detective Garda Colm Horkan. His untimely death a testament to public service.

**Bob Collins**  
**Chairperson**

## 1 Introduction

During 2020, the Authority has produced nine reports to the Minister for Justice, all published, on its oversight and assessment of the policing performance of the Garda Síochána through the COVID-19 pandemic. This tenth report in the series, and the last report to be issued in 2020, reflects the cumulative data provided by the Garda Síochána and a summary of the range of issues encountered to date. At the start of the year, it was unimaginable that the population would endure such infringements on their freedom of movement and rights. The population has been living with COVID-19 and the restrictions to prevent its spread for almost nine months. At year-end, and facing into ongoing restrictions in 2021 until such time as an effective vaccine is rolled out, it is an opportune time to look back and assess the issues which have arisen throughout the period.

The Authority would like to thank the organisations which engaged with it during a particularly busy and challenging year, to provide insight into how policing was being carried out among the different communities within our population. Despite the challenges facing them during the public health emergency, they were still alert to the importance of what was happening from a policing perspective. They realised the importance that ‘this’ be captured so that it might be understood and as a result endure beyond the pandemic.

Section 2 of this report outlines the key developments in the Government’s response to COVID-19 since April 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 from communities and businesses to assess the nature and consistency of Garda Síochána interactions during the period. The final section presents an overview of the key oversight issues which arose during the year and for which the Authority is continuing to pursue through its engagement with the Commissioner, the Garda organisation as a whole and with relevant stakeholders.

## 2 Key Developments in Response to COVID-19

The Garda Síochána achieved more than the enforcement of regulations. From the outset of the COVID-19 emergency the Garda Síochána adopted a graduated approach to policing referred to as the four E’s – Engage, Explain, Encourage and as a last resort Enforce. From 8 April the Garda Síochána were granted powers to be able to employ the final step of enforce for the restrictions which were placed on the public, through Statutory Instrument (S.I.) 121 of 2020. These included the power to:

- Direct a person to comply with the Regulations;
- Arrest for failure to comply with such a direction;
- Demand a person’s name and address;
- Arrest for failure to comply with the demand for name and address; and
- Arrest for failure to comply with the Regulations.

On 8 June Phase 2 of the ‘Roadmap for Reopening Society and Business’ commenced and, with the enactment of S.I. 206, restrictions on the general public were eased while a number of the penal

provisions set out in S.I. 121 of 2020 were revoked. This resulted in the Garda Síochána primarily relying on the first three E's in its engagement with the general public, with some notable exceptions where penal provisions for non-compliance were provided for.

- S.I. 181 of 2020 (24 May) set out regulations for international travellers to the State requiring them to provide information on their location during their stay within the State and made non-compliance with this a penal provision.
- S.I. 206 of 2020 (8 June) introduced a limited range of additional penal restrictions focussed on the organisation and undertaking of events, and access to business premises.
- S.I. 234 of 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), set out regulations concerning the wearing of protective face coverings on public transport. Failure to comply with the regulations was a penal provision providing the Garda Síochána with additional powers in certain circumstances.
- S.I. 296 of 2020 (11 August) introduced 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.

A rise in cases in certain parts of the country prompted localised restrictions from 7 August through S.I. 295 of 2020, lasting until 21 August for Laois and Offaly and until 31 August in Kildare. However, these did not result in the reintroduction of penal provisions and the Garda Síochána could only use the first three E's in its approach to ensuring compliance from the public.

On 4 September S.I. 326 of 2020 was introduced, revoking S.I. 234 above. It placed restrictions on private gatherings, events, licensed premises and other premises not selling alcohol. This contained penal provisions for event organisers, licensed premises and premises which do not sell alcohol, who were in breach of the restrictions. It also placed obligations on those licensed premises which were open and serving substantial meals, to maintain accurate records of customers' arrival and departure times. The penal provisions did not extend to private gatherings such as house parties.

On 15 September the Government published its Plan for COVID-19 Resilience and National Recovery and a National Framework for Living with COVID-19. The framework contained five levels of response with increasing restrictions at higher levels, up to level 5.

On 5 October, the whole country moved onto Level 3, joining Dublin and Donegal. The number of cases continued to rise and on 21 October the country was moved onto Level 5. This provided for 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. While similar to the initial lockdown of 8 April to 8 June, it did allow for a greater number of exceptions, particularly in relation to travel outside of the 5km radius and in relation to the categories of retail which were allowed to remain open.

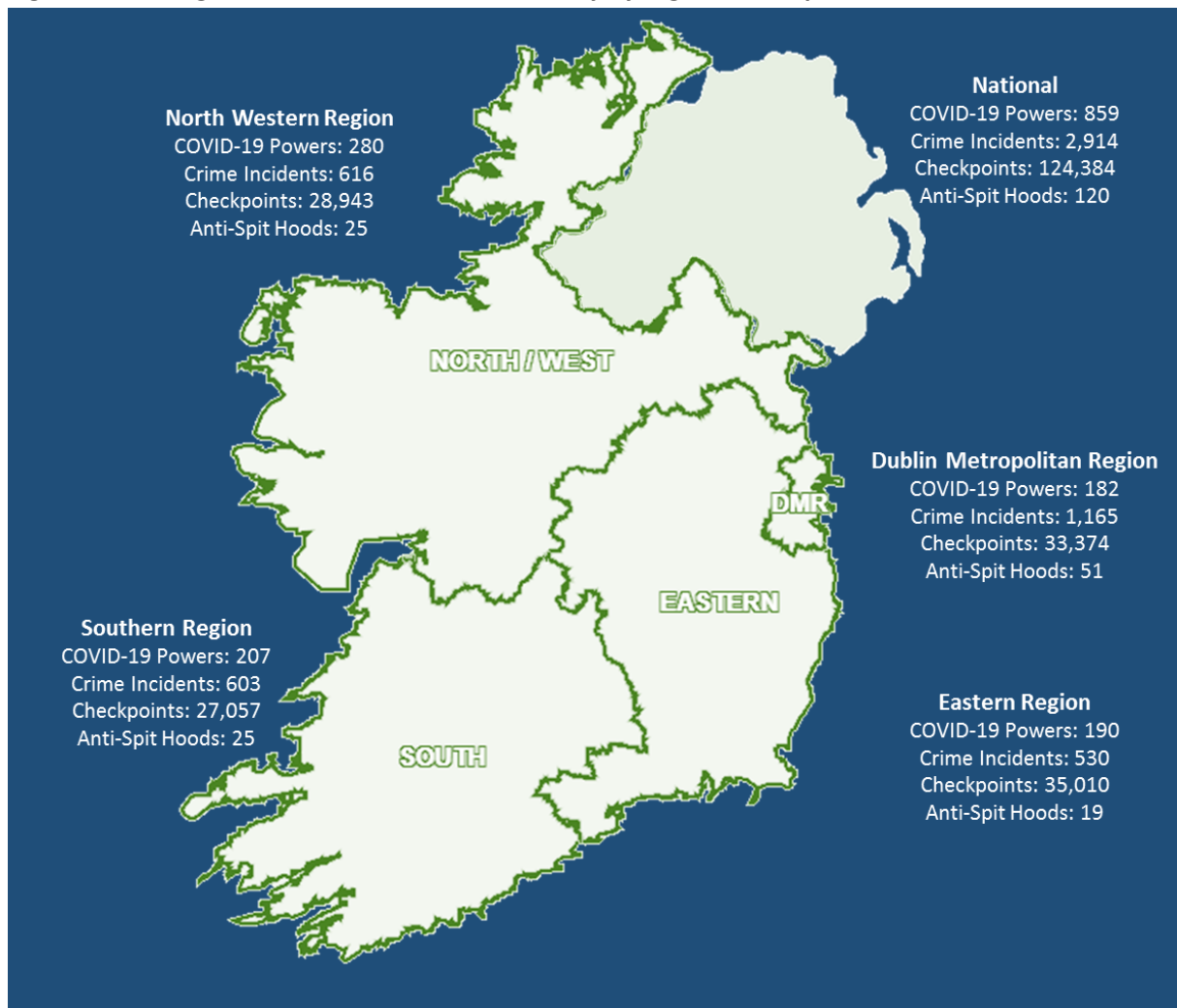
The move to Level 5 was accompanied by a move to return enforcement powers to the Garda Síochána by way of fixed penalty notices, through the Health (Amendment) Bill 2020. This was signed into law on 25 October and based on engagement with the Commissioner at the most recent Authority meeting on 16 December, the fines system is now operating as an option for Gardaí to enforce the

non-wearing of face masks. However, other restrictions continue to change too frequently to make it practical to implement a system of fines for other penal provisions. The Garda Síochána have done some initial comparative analysis between the fines imposed in neighbouring jurisdictions, such as Northern Ireland, England, Wales and Scotland. While the scale of imposition of fines in those jurisdiction is significantly higher than ours, this does not appear so far to be reflected in poorer health outcomes for Ireland.

### 3 Policing COVID-19 in Numbers

The latest data available from the Garda Síochána covers the period up to 5 December 2020 for all data and up to 13 and 14 December for checkpoints and anti-spit hoods respectively. From 8 April to 5 December there have been 859 incidents where enforcement powers under COVID-19 Regulations were used; an increase of 157 since the last report to the Minister which covered up to the 31 October. In excess of 30,000 checkpoints were conducted since the start of November representing a significant increase of activity during the Level 5 restrictions. Despite the increase in Garda activity and enforcement, there has only been one incident where an anti-spit hood has been used in November and December.

**Figure 2: Policing COVID-19 in numbers - summary by region for 8 April to 14 December<sup>1</sup>**



<sup>1</sup> Use of COVID powers and crime data refers to 8 April to 5 December April. Use of anti-spit hoods covers the period 8 April to 14 December. Checkpoints refer to periods 11 May to 2 August and 10 August to 13 December only. Data is indicative only.



From 8 April to 5 December the Garda Síochána have exercised powers under COVID-19 regulations, 859 times. The initial restrictions introduced in April resulted in 236 incidents in which powers were used, primarily on members of the public.

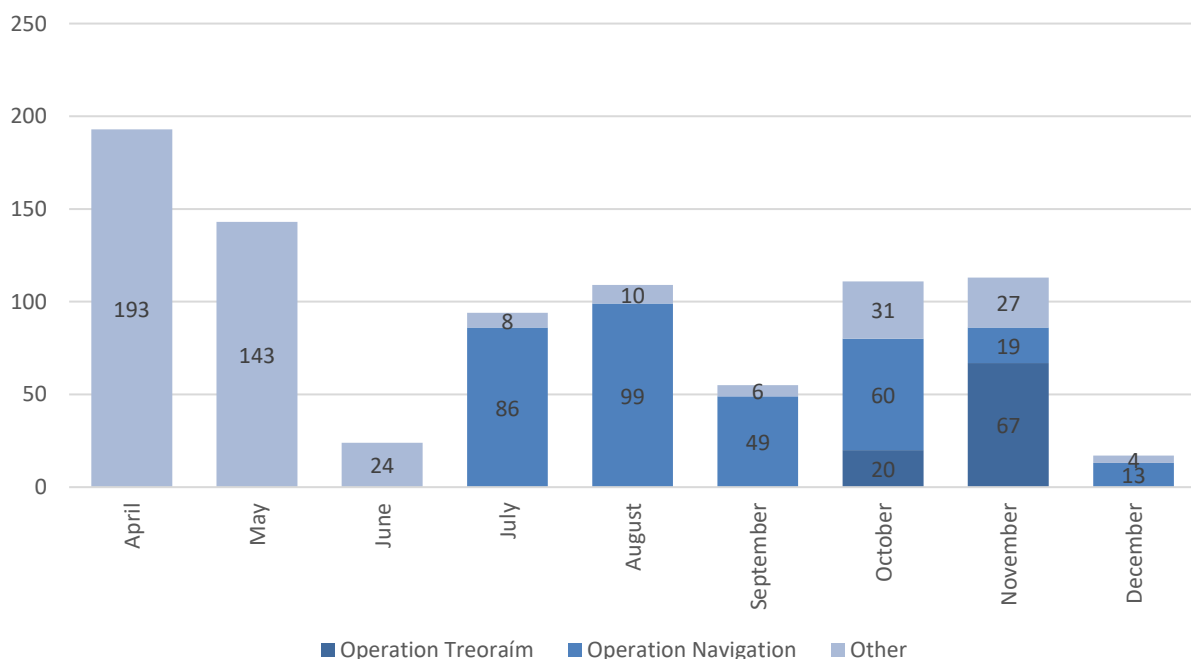
With the lifting of restrictions on 8 June the number of incidents fell dramatically. By the end of June, licensed premises were permitted to reopen provided they met certain criteria (for example serving a substantial meal) under S.I. 234 and later S.I. 326 of 2020, and enforcement of these criteria was completed through Garda Operation Navigation. This resulted in more than 50,000 visits being conducted by Garda members to licensed premises. While approximately 60% of these establishments were found to be closed, the Garda Síochána reported 326 incidents where they used their powers. The majority of these occurred between July and October, until Level 5 restrictions meant most premises were closed once again.

With the introduction of Level 5 restrictions, only retailers selling certain categories of goods or services were permitted to remain open. To enforce the closure of non-essential retail, Operation Treoraím commenced which resulted in 87 incidents, mostly occurring in November where the operation accounted for approximately 60% of all COVID-19 related incidents.

While Operation Treoraím became the main source of new incidents during Level 5 restrictions, incidents involving members of the public have been considerably lower than what was experienced in the initial restrictions of April and May. Since 28 June the Garda Síochána have reported the following;

- 9 incidents relating to breaches regarding face coverings;
- 5 incidents relating to breaches regarding international travel; and
- 74 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 5 December**



Out of the 859 incidents the North Western Region accounted for 280 (approx. 33%) 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 did not identify any issues of the use of powers being centralised in any local area.

A complete dataset is not currently available for more recent weeks. However, the Garda Síochána have reported an additional 13 incidents where powers were used, which are not counted in the above. Seven of these relate to Operation Navigation while the remaining six were the first issuances of FCNs to members of the public and relate to non-wearing of face coverings.

From 8 April to 5 December there have been 2,914 crime incidents which were discovered as a result of COVID-19 policing activities. This is an increase of 308 incidents since the last report. The majority of these incidents relate to roads, public order and drugs offences with no new trends emerging since the initial assessments by the Authority.

The number of times powers were exercised under COVID-19 regulations and number of crime incidents represent a fraction of the number of interactions by the Garda Síochána with the public and with businesses. There were in excess of 120,000 checkpoints alone since 11 May. The majority of these were carried out in the initial lockdown, with approximately 10,000 checkpoints per week in May, and again during Level 5 restrictions, with almost 6,000 per week.

However, within those interactions which do not result in a recorded incident, there is still capacity for a Garda member to use their powers to direct. Such direction or interaction is not recorded, as outlined elsewhere in this report, and yet is an important element of the policing effort with consequences for the relationship between the Garda Síochána and communities. Examples of this are reflected in the next section of this report which summarises some of the stakeholder engagement embarked upon by the Authority.

## **4 Stakeholder Engagement**

### **4.1 Outreach**

The Authority has had 50 engagements with 40 different groups and organisations during the period April to December 2020. This outreach work was originally undertaken in the context of new policing powers and a need to understand how these were being implemented. It also sought to understand the experience of policing during COVID-19 for as broad a range of people within the community as possible. In line with its organisational value of listening, the Authority has sought to document what it has heard and consider it in the context of its oversight role and it is useful to reflect at year end on the key themes which have emerged.

These engagements were not possible without the generosity of so many organisations - themselves busy – for which the Authority is very grateful. These organisations and groups are critically involved in addressing the complexities, vulnerabilities and harm wrought by COVID-19 on the communities in which they live or serve. They have each spoken with candour and no small degree of reflection on the nature, character and impact of the policing response during this time. There is continued uncertainty as to exactly when this period will end but their reflections to date tell a story of policing during this time while also pointing to what the policing legacy of this period could be.

### **4.2 Community Policing**

The policing response to COVID-19 was characterised for many by greater Garda visibility, engagement and proactivity within communities. The visibility described by groups was not just a matter of greater garda numbers. It was about the nature of the activity undertaken by the Gardaí. This appears to have delivered a sense of their presence in the community rather than just their visibility. Communities reported a greater access to the Garda Síochána and confidence as to their interest, and this gave a sense of security and reassurance for many; not just those who needed their help. The Gardaí were observed to be reaching into the ‘nooks and crannies’ of the community to find those who needed assistance, to help solve problems and to keep people safe. This demanded an alertness to vulnerability, a wiliness to work constructively with other agencies and groups, and a desire to help. Groups and organisations responded with generosity to the quality and character of the policing presence and there has been a palpable appreciation for the volume and quality of the work undertaken.

In describing the policing that has happened, groups have made reference to this period being a ‘blueprint for community policing’, ‘getting back to community policing like it used to be’ and a ‘return to knowing your guard’. Those spoken to reflected a perception that community policing has been undervalued in the organisation, that there was insufficient attention to its skilled nature and that what the Garda Síochána measures is not always what matters to the Community. Reference was made to the need to value the ‘chats at the wall’; that engagement needs to be given time and that those recruited into community policing should have the skills and disposition to forge relationships in the community. There was also a call to find a way to measure the frequency and quality of community engagement as an outcome of policing that has perhaps more impact on day-to-day life for that community than, for example, the high profile seizure of drugs. The emphasis in these conversations has been on the Garda Síochána’s relationship with the community and the reduction of a perceived distance that had developed between the community and its policing service. That

distance has been considerably shortened during this period. Organisations asked whether the difference in the experience of policing is a product of the unusual circumstances, the increased resources, a changed crime environment, instructions that delivered a greater clarity of purpose or a combination of these factors. There was a consistent desire expressed to understand what had allowed or brought about an enlivened community policing so that it might be retained post the COVID period.

### **4.3 Tone of Policing**

It is hard to overemphasise how much the tone of policing featured as a valued outcome of the Garda Síochána's efforts during this period, and the significant impact tone had on the community's experience of policing. The stated intention to adopt a graduated response to the policing of the restrictions using the four 'Es' was realised and the general sense expressed was that the powers were used economically. In early reports, the Authority heard concerns that additional policing powers might be used in a discriminatory manner and that policing might be heavy handed. For some groups who believed that their relationship with the Garda Síochána was already strained, there was a stated concern that policing during this time would only see an exacerbation of that strain.

What emerged during the outreach discussions was a sense that the Garda Síochána was approaching long established tasks more effectively and that the manner in which they were discharging their duties was of a different character. The tone of policing was described as more empathetic, respectful, focused, caring and engaged. This saw cautious optimism expressed by those who hitherto expressed low confidence in the Garda Síochána. This tone was seen at the level of the individual and the organisation. This built trust but it was also reported that the tone of policing made the intrusions on the daily rhythms of normal life, brought about by the COVID-19 restrictions, somehow more palatable.

The outreach work would suggest however that this tone cannot be assumed to be constant or uniform. Inconsistency did arise in relation to the experience of policing by one cohort – young people who, irrespective of social class, ethnicity, sexuality or location within the country, perceived policing during this time as an instrument of control rather than care.

It also arose in communities that perceived disparities in the way policing was conducted or indeed times when policing of restrictions didn't happen. There would also appear to be a question as to the resilience of the tone adopted. One group that had previously expressed surprise and appreciation at the manner in which policing had changed to afford them respect and parity of esteem has more recently reported a reversion to a previous tone which is belittling, aggressive and incompatible with any ability to have confidence that the police service is there for them. The seemingly spontaneous emergence of a tone of policing that delivered respectful engagement is not a guarantor of its continuance. The good will it generated can, and has in this case, been quickly undermined and eroded, sometimes by the actions of the few. There is a huge potential to build on the experience of policing during this time. But as restrictions abate and there is a sense of a return to normal, the challenge is to ensure that the tone does not also return to the old normal when so much has been heard as to how significant that changed tone has been for the community. We have commenced and will continue engaging with the Garda Commissioner and his senior colleagues on how any reversion can be stemmed and optimal potential can be achieved.

#### 4.4 Infrastructure

All those spoken to, raised the unenviable nature of the task which faced the Garda Síochána and the breadth of the responsibility placed on the organisation and its members and staff. The agility of the organisation – ‘how quickly it got out of the traps’ – was referenced many times as a strength. Some organisations also believed however that this strength left the Garda Síochána in a situation where it had to take on more than it probably should. The issues that present themselves to the Garda Síochána are not always within their competence or remit to resolve and yet they are the people most likely to have the tacit knowledge of the community that brings them into early contact with vulnerability. A clear message emerged during the outreach discussions that the Garda Síochána needs to leverage the support infrastructure that exists within the community. While stories of excellent interagency working were recounted, often these were premised less on systems and more on the quality of personal relationships that had developed. This leaves such working vulnerable to the impact of changes in personnel. Those spoken to referenced the need for interagency working that allows each organisation to position itself to focus on the key competence it brings to the community safety issue, supported by a sense of mutual and reciprocal accountability.

#### 4.5 Interpreting the regulations

The unenviable nature of the tasks facing the Garda Síochána was also emphasised by those representing commercial entities impacted by the restrictions. There was huge appreciation for the graduated approach to policing but also some frustration in what was perceived as initial confusion around the early interpretation of the regulations and how best compliance might be inspected. There was sympathy for the difficulties in translating the breadth and complexity of the restrictions on paper into inspection and enforcement practices in various types of businesses. It was advised that early engagement with industry bodies might have assisted in this but there were also questions raised as to the perceived challenges of communicating across the police service.

There were questions as to whether there was a reluctance to use the fourth ‘E’ with industry bodies citing the importance of visible enforcement activity against errant members who were not adhering to the regulations. Visible and consistent enforcement is regarded as important for the credibility of the efforts being made by businesses to operate within the restrictions and the feedback has been that enforcement would be welcomed.

#### 4.6 Response to the Shadow Pandemic

The early anticipation by the Garda Síochána of the likely impact of COVID-19 on domestic abuse and the creation of Operation Faoiseamh as a response has been recognised by all spoken to as hugely significant in keeping people safe during this time. Vulnerability was exacerbated by the restrictions. The normal patterns of life that would have allowed some respite or opportunities to access support for those suffering from domestic abuse were closed off. There was and is an increased risk of violence and abuse behind closed doors precisely at a time when there were few people entering the home to provide care and safeguarding. When others weren’t there, the Garda Síochána reached in.

Operation Faoiseamh is reported as having had clarity of purpose and consistency of application. Organisations have reported that not only did Operation Faoiseamh deliver in practical terms, but it (or perhaps COVID-19) had an almost catalytic impact in hastening a shift in the appreciation, understanding and culture around this type of crime and type of harm. That shift is evident in the focus, resourcing and approach to the policing of domestic abuse. It has seen what has been described as a more nuanced understanding of domestic abuse and coercive control, a recognition that there is no one type of victim or perpetrator and an increased alertness to the circumstances in which it is occurring. One group described how domestic abuse had, in its view, been the Cinderella of policing but that the shadow pandemic had brought it front and centre not only in terms of the Garda Síochána but also at a national level for the population. Tolerance of domestic abuse or its framing as a private domestic issue is perceived to be changing. The appreciation, value and significance of Operation Faoiseamh has been documented consistently in previous Authority reports and has recently been described by groups working with survivors of domestic abuse as 'superb'. It is acknowledged that there is still work to be done but the overriding hope of groups spoken to is that there will be no unwelcome diminution of the focus and resourcing that is now in place and that it will be maintained.

The feedback from a broad range of groups and organisations over the past number of months provides rich information not just in terms of a snapshot in time but in terms of the sense of what is of value to the community and how those elements that have brought value might endure beyond the period of COVID-19. Their endurance cannot be assumed but will require conscious choice by the Garda Síochána as to what it distils from this experience.

## 5 Key Oversight Issues 2020

### 5.1 Use of Powers and Use of Force

#### Reporting on use of Powers

From the outset of the public health emergency, the Garda Síochána adopted the “the four E’s”, which are Engage, Explain, Encourage and Enforce. This graduated response was welcomed by the Authority as it afforded opportunity under the first three E’s for members of the public to be prompted to disperse, return to their homes or cease their journeys.

The additional powers granted to the Garda Síochána from 8 April allowed, when necessary, to escalate to enforcement. There were five powers afforded to Gardaí under the emergency legislation, namely to:

- Direct a person to comply with the Regulations;
- Arrest for failure to comply with such a direction;
- Demand a person’s name and address;
- Arrest for failure to comply with the demand for name and address, and
- Arrest for failure to comply with the Regulations.

The Garda Síochána provided data on incidents where penal provisions had been invoked, as included in this report. However this did not include incidents where, for example, a member of the public was directed to cease their journey and complied. The Authority repeatedly called for this information to be recorded and reported to fully capture the extent of enforcement activity and the use of Garda powers. However, the Garda Síochána were not able to provide such data. A number of surveys conducted suggest that this activity was significant in number relative to the number of incidents which were recorded by the Garda Síochána. However, this is not a substitute for data and for evaluating the scope, fairness and proportionality of interactions among communities.

While the regulations have changed as the public health emergency has progressed and the focus of enforcement appears to have shifted from the public to licensed and retail concerns, recording the full scope of use of powers remains an issue.

The breadth of recording aside, the Authority recognises the reporting burden on the Garda Síochána which has resulted from the introduction of emergency powers and the increased policing effort as a result of COVID-19 and further recognises the important roles GISC and GSAS have fulfilled in providing timely data to Garda Síochána management and for the purposes of the Authority’s oversight of policing during the pandemic.

#### Anti-Spit Hoods

From the outset of their introduction, the Authority expressed significant concern regarding the introduction of anti-spit hoods and, in particular, the potential for the use of these draconian devices on children. It sought assurances from the Commissioner that these would only be used for the duration of the pandemic and worked with the Garda Síochána to develop a reporting template which would be used for every single incident of use and be subject to Authority oversight. It also reviewed the policy and associated training for members, and confirmed the conditions in which these could be used. The provisions in the policy and training included that:

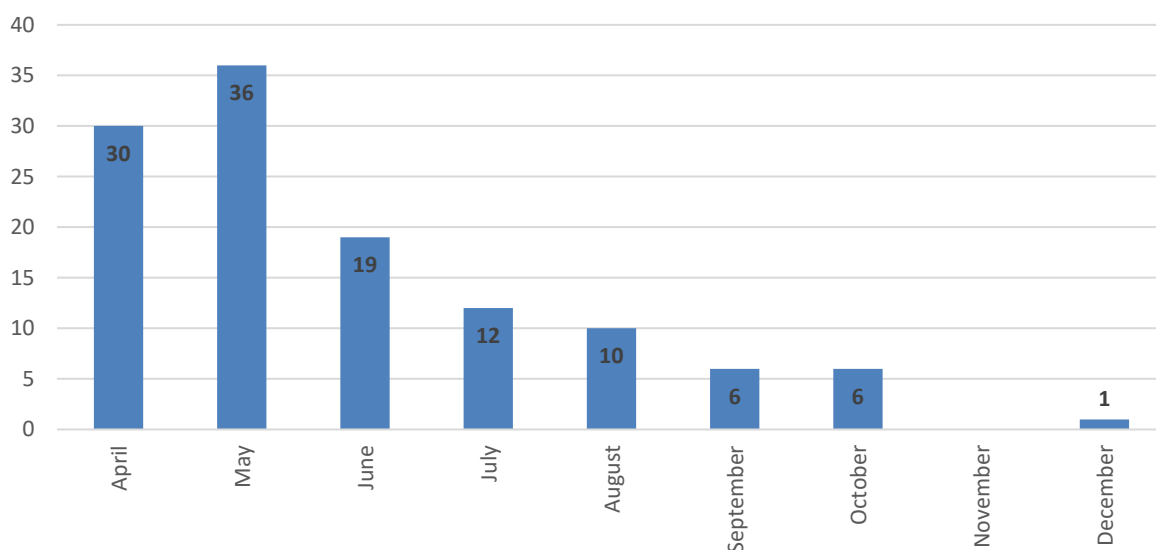
- The primary objective of their use is to stop the transmission of infectious disease(s) such as COVID-19 and **not** as a restraint (emphasis in the original);
- The only circumstances which may justify the use of such a device are where there is clear evidence of spitting **now** or where a Garda member believes there is a clear and tangible threat of spitting being posed by the subject;
- Previous instances of the above behaviour will not provide justification for their use in isolation; and
- Spitting on the ground to clear the mouth, especially if the subject is bleeding or distressed, is not a catalyst to use the device.

In August the Garda Síochána commenced work on an evaluation of the management and use of anti-spit hoods, to which the Authority provided observations. The detail of this evaluation is awaited. However, it is important to note, particularly in relation to the stated primary objective of the anti-spit hoods, that these may not be fulfilling their objective in protecting the welfare of Garda members. The Authority contacted the distributors of the anti-spit hoods who stated that the devices had not been tested for their capacity to prevent airborne or respiratory droplets which spread COVID-19. It was also confirmed that these are the same model of anti-spit hood which is used by the PSNI, which Amnesty International reported as being ineffective in preventing the spread of the virus.

Since the last report to the Minister, there has been only one additional incident with total uses standing at 120. The reduced use is welcome but the potential for further use remains.

Throughout this series of reports and in all consideration of this issue, the Authority has consistently expressed its condemnation of any and all types of assaults or threats of assaults on Gardaí and on members of the public. It deprecates such behaviour in all circumstances and its expression of concern about the use of anti-spit hoods should not be interpreted as diluting the vigour of that condemnation in the slightest.

**Figure 4: The number of applications of anti-spit hoods by the Garda Síochána by month, 12 April to 14 December**



An assessment of the 120 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 101 incidents these were used on males, while the remaining 19 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 115 of these incidents. Additional information from these more detailed reports shows:

- In 17 incidents the garda member perceived the detainee to have obvious signs of a mental health issue. This was not the case in 68 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 83 incidents and it was unspecified in a further 31 incidents.
- In 78 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.

### **Armed Checkpoints**

The Authority were aware of reports that armed Garda members were present at some checkpoints during enforcement activities during the initial restrictions from 8 April to 8 June. It raised this issue with the Commissioner to seek reassurances that the presence of armed members was appropriate. It was explained that armed detectives were assigned to checkpoint duty as a matter of increasing capacity and not for an armed presence and that in some circumstances armed members were assigned to checkpoints based on intelligence and subsequent risk assessment. The Authority still had questions about the impact of overt carrying of firearms on public perception and kept this issue under review.

### **Complaints**

The Authority liaised with GSOC to monitor trends in complaints relating to the policing of COVID-19. Throughout the period, contacts with GSOC related to this were relatively small in number and primarily related to concerns of Garda members not socially distancing and not wearing PPE when engaging with members of the public. The Authority also monitored trends in its own correspondence from the public and did note a number of concerns. The issues raised in this correspondence were shared with the Commissioner on an anonymised basis.

## **5.2 Wellbeing of Garda Members and Staff**

### **PPE, Testing and Vaccines**

Given that interaction with the public by the Garda Síochána increased during the pandemic, while most others were minimising contact, the issue of wellbeing of members was at the forefront of the Authority's concerns.

Given observations and incidents of complaints from the public about PPE and social distancing, the Authority followed up on this throughout the first months of restrictions. The Garda Síochána provided

reassurances to the Authority that it was following advices of the National Public Health Emergency Team (NPHE), the Health Service Executive (HSE) and the Garda Chief Medical Officer. It was not until 15 May that guidelines were issued for members that they should wear face coverings when unable to practise social distancing or when in close contact with another person for more than 15 minutes. This did not extend to wearing facemasks on beat patrol, checkpoints, single occupancy vehicles or other situations where social distancing could be maintained. The Authority also sought reassurances that sufficient stocks of facemasks and related PPE was available.

The Authority also questioned the area of priority testing for members. In May it emerged that priority testing was not available for members. The Commissioner provided reassurances that the organisation could rely on the HSE system and that there would not be any operational impact as a result.

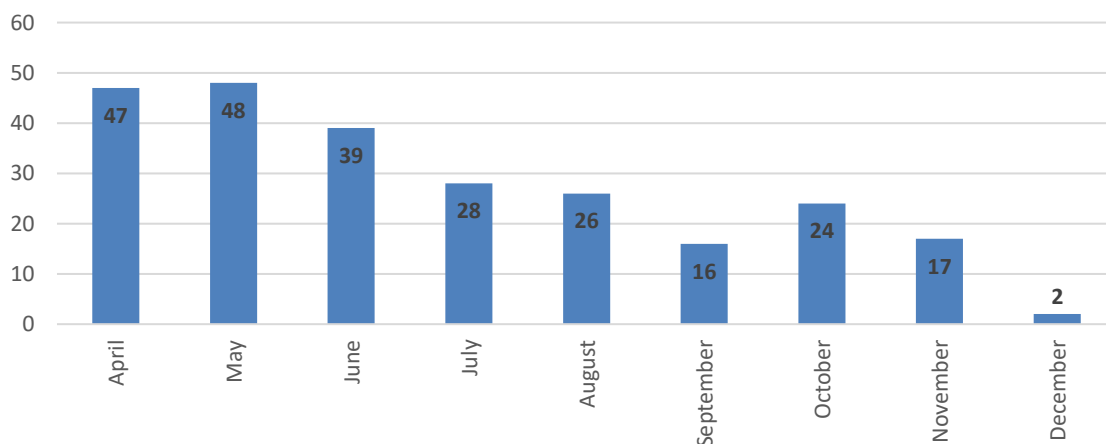
**Training, support, supervision and performance of new recruits**

Another key issue to arise was the early attestation of student members from Templemore. The Authority did, at the outset, express concern about the welfare of these members and the adequacy of training, supervision and tasks assigned to them. From its engagements throughout the country and conversations with the Commissioner, the Authority were made aware of the significant impact these newly attested members were making in supporting community policing in particular, of the local arrangements in place for supervision by more senior members and the on-the-job learning opportunities which were afforded to these new recruits. It continues to monitor training as part of its ongoing oversight of both the policing of the public health emergency and of the Garda Síochána as a whole.

**Spitting Assaults**

The Authority has been vocal in expressing its condemnation of verbal and physical abuse directed at garda members and staff, particularly during the public health emergency. As a means of monitoring this area, the Authority has been particularly focused on assaults by spitting or coughing at members.

**Figure 5: Monthly breakdown of the number of assaults on garda members who have been coughed on or spat at, 12 April to 14 December**



Since 12 April there have been 247 such incidents, including 17 in November and 2 to date in December. While these numbers are lower than reported during the early stages of the pandemic, the issue remains a source of concern.

### **5.3 Policing to Protect and Respect Human Rights**

Fairness and consistency in the Garda Síochána approach has been an issue which the Authority has been closely monitoring, particularly through its stakeholder engagement reflected in section 3 of this report. In addition to this the Authority has been engaging with the Garda Síochána on a number of key issues as follows.

#### **Policing of Protests**

The period has been marked by a number of protests and the Garda Síochána has been challenged in both recognising an individual's right to protest and the obligation to keep people safe. The Authority stressed from the outset the importance of both being, and being seen to be, fair and consistent. It received reassurances from the Commissioner, following earlier protests, that the approach taken was to avoid escalation, arrests and physical contact, and instead to encourage compliance with the COVID-19 Regulations by individuals. This was often done by the Garda Síochána making efforts to engage with protest organisers, where possible in advance. Where individuals did not comply, and powers were used, files were prepared for the DPP rather than being taken directly by the Garda Síochána to court as summary matters. This provided an extra layer of protection for members of the public. The Authority noted that in later protests, such as Black Lives Matter, the Garda Síochána's efforts to engage with protest organisers.

#### **Recording Ethnicity**

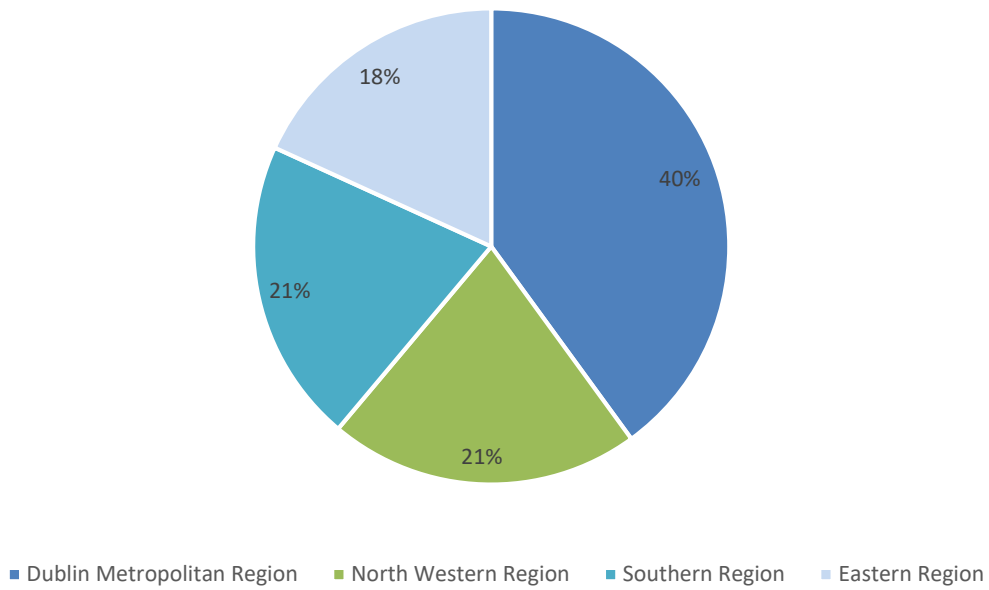
The issue of recording ethnicity arose, particularly in relation to the reporting on the use of anti-spit hoods, but also as part of the Authority's wider objective in ensuring consistency and equality of policing in all of our communities and ensure policing is proportionate, fair and in compliance with human rights obligations. The practice of recording ethnic indicators is common in other jurisdictions, but that has not been the practice of the Garda Síochána and it is an issue which the Authority has been pursuing in its engagement with the Commissioner and the legal department of the Garda Síochána. It has been noted that the issue has been discussed during the Garda Strategic Human Rights Advisory Committee meetings which the Authority have attended as observers. The Authority will continue to oversee this issue and assess progress being made.

### Appendix 1 – Graphical summary of certain policing activities

Figure 6: Reported use of COVID-19 policing powers by Garda Division, 8 April to 5 December, 2020



**Figure 7: Distribution of crime incidents disclosed during COVID-19 policing activities by region, 8 April to 5 December, 2020**



**Figure 8: Checkpoints carried out by region, 7 to 13 December, 2020**

