



AN TÚDARÁS PÓILÍNEACHTA
POLICING AUTHORITY

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

15 March 2021

Contents

Chairperson’s Foreword.....	i
1 Introduction	1
2 Key Developments in Response to COVID-19.....	1
3 Policing COVID-19 in Numbers.....	2
3.1 COVID Related Fines	2
3.2 Non Fine Related COVID Policing Activity and Enforcement	5
3.3 Indicators of Compliance	7
4 Stakeholder Engagement.....	9
4.1 Outreach	9
4.2 Funerals.....	9
4.3 The erosion of goodwill.....	10
4.4 Living in a drugs economy.....	11
4.5 Students	11
4.6 The experience of policing during COVID 19	12
5 Key Oversight Issues	13
5.1 Protests and Public Order	13
5.2 Enforcement and Complaints	13
5.3 Anti-Spit Hoods	14
5.4 Wellbeing of Garda Members and Staff	15
5.5 Policing to Protect Human Rights	16
Appendix 1 – Graphical summary of certain policing activities.....	18

Chairperson's Foreword

The events in Dublin on Saturday 27 February marked a sharp turn in public expression of unhappiness with the restrictions associated with the health emergency that have been part of life, in one form or other, for a year now. Whatever the motivation or purpose of those who participated in that protest, nothing can justify the violence directed against members of the Garda Síochána. The Authority immediately issued a public condemnation of the assaults and reiterates that condemnation here. Assaults on Gardaí who are simply doing their jobs can never be justified.

There are clear indications that, while the great majority of the population are attempting to abide by the regulations and guidelines intended to limit the spread of the coronavirus, the level of observance by some is fraying. And that drift away from the spirit of a shared communal commitment is not without consequences for policing during the pandemic. This report identifies from the outreach work undertaken by the Authority a certain weakening of the closeness of the relationship between Gardaí and public that had been such a striking aspect of the experience of 2020. It will be necessary to reflect on what may be the primary causes of this shift and on how it can be redressed.

There is an inevitable level of weariness that this emergency has endured for so long. There is a great deal of misinformation being widely distributed through social media and otherwise. And while, as has previously been observed in these reports, there can be few who are not aware of the broad outline of the restrictions, there will undoubtedly be some who do not appreciate important details.

The Statutory Instruments that outline the regulations are complex documents and are frequently amended. They are not easy to read. The presentation of their intent can be misunderstood. Just as in the early days of the restrictions when the guidance to older people, those over seventy in particular, severely to limit their movements away from home was wrongly perceived by many as a legal requirement, there appears to be some persistent misunderstanding of certain restrictions, if calls to radio programmes or comments in newspapers are a guide. The “five kilometre rule”, which only applies to the taking exercise within a 5 kilometre radius of a person's place of residence, is a case in point where the regulations are perceived as being more restrictive than they are and people may be unnecessarily limiting their perfectly permissible activities.

The data given in this report show that Fixed Penalty Notices, or fines, continued to be at a high level. For the seven weeks from mid January, the average number of fines exceeded 1600 per week. In the most recent week, however, the number of fines recorded fell below 1000. It is too early to say if this is the beginning of a sustained decline; the figures are subject to some change. It is also too early to say whether the fines may be contributing to or simply reflecting a change in behaviour.

While recognising the need for measures to reduce the extent to which the regulations were being disregarded, there is cause for some reservations about the increasing use of fines. Although they are equal in their amount (all breaches in the same category carry the same penalty), they can be quite unequal in their effect. For some, they represent an amount that can be relatively easily borne but for others, they will weigh much more heavily because they are less well off. In the case of

penalties imposed on young adults, the burden may ultimately fall on parents. In addition, the highest fines attaching to fixed penalty notices approach the level of fines that might more usually be imposed by the courts. This is an area that will merit continuing attention.

Two issues touched on in this report may have resonances for many. The first is the view expressed by organisations working with young people that the absence of opportunities for young people to gather together, however safely organised, represents a real burden on them and, for some, makes them more vulnerable to being introduced to, or becoming more involved in, drug-taking. This echoes similar views expressed by these organisations in the first half of last year but, perhaps, with a greater sense of urgency.

The second is the matter of funerals. There is not a family in the state which has suffered a bereavement in the last year that has not also had to bear the added distress of not being able to observe the traditional rituals of funeral rites. The inability to gather together to grieve, to express esteem and to convey sympathy has considerably added to the burden of a bereavement. Side by side with that, there are some who, with some form of inappropriate exceptionalism, act outside what the law allows, ignore the restrictions so faithfully observed by the great majority and gather together in large numbers. This behaviour adds to the distress of those who have observed the limitations, constitutes a risk to the further spread of the disease, can disturb those who live where the funerals take place and represents a further burden and a real dilemma for the Garda Síochána.

The Authority has consistently expressed its concern for those in the Garda Síochána whose work and family lives have been so affected by the pandemic. The wellbeing of all who serve in the organisation has been a regular subject of discussion with the Commissioner. The nature of policing work requires unplanned close contact with members of the public, very often in uncontrolled circumstances where the practice of social distancing and other such preventive measures is not practicable or possible. That carries risk. The determination of categories of priority for vaccination must, of course, ultimately be determined by those with responsibility for public health. But it is to be hoped that when those identified as most vulnerable have been vaccinated, the particular circumstances of those who work in the Garda Síochána will be given the necessary attention.

Bob Collins
Chairperson

1 Introduction

This is the 12th Report to the Minister for Justice on the Authority's oversight and assessment of the policing performance of the Garda Síochána through the COVID-19 emergency. The last report to the Minister noted the increased level of enforcement which occurred with the introduction of fines for breaches of regulations. This trend has continued into February and early March with ongoing and significant high numbers of fines. The period was also marked by protests, one of which saw violence directed at garda members. This change in the tone of the nation has been witnessed elsewhere as the length of restrictions begin to weigh heavily on the public. These issues are discussed throughout this report.

Section 2 of this report outlines recent 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 summarises related data provided by the Garda Síochána. Section 4 presents findings from the Authority's ongoing engagement with stakeholders to assess the nature and consistency of Garda Síochána interactions during the period. The final section presents an overview of the key oversight issues on which the Authority is engaging with the Commissioner, the Garda organisation as a whole and with relevant stakeholders.

2 Key Developments in Response to COVID-19

The last report reflected on the pace of development of regulations aimed at reducing the spread of COVID-19. Since the last report, there have been relatively few developments in this regard. The main change as far as regulations have been concerned was the introduction of Statutory Instrument (S.I.) No. 95/2021 and S.I. No. 100/2021 which extended S.I. No. 701/2020 and S.I. No. 44/2021 respectively until 5 April 2021. These are the main two statutory instruments restricting movement and actions of people, both resident and visitor and are the basis for engagement and enforcement by the Garda Síochána with respect to reducing the spread of COVID-19.

In summary they cover;

- S.I. No. 701/2020 (published 5 January 2021) provides for temporary restrictions on a range of indoor and outdoor events, along with temporary restrictions on access by the public to a range of businesses and services. They also provide for temporary restrictions on travel. The Regulations were to initially remain in operation until 31 January 2021.
- S.I. No. 44/2021 (published 9th February 2021) places obligations on certain passengers arriving into Ireland who have travelled from overseas with regard to testing. Relevant travellers may also be obligated under these Regulations to self-quarantine.

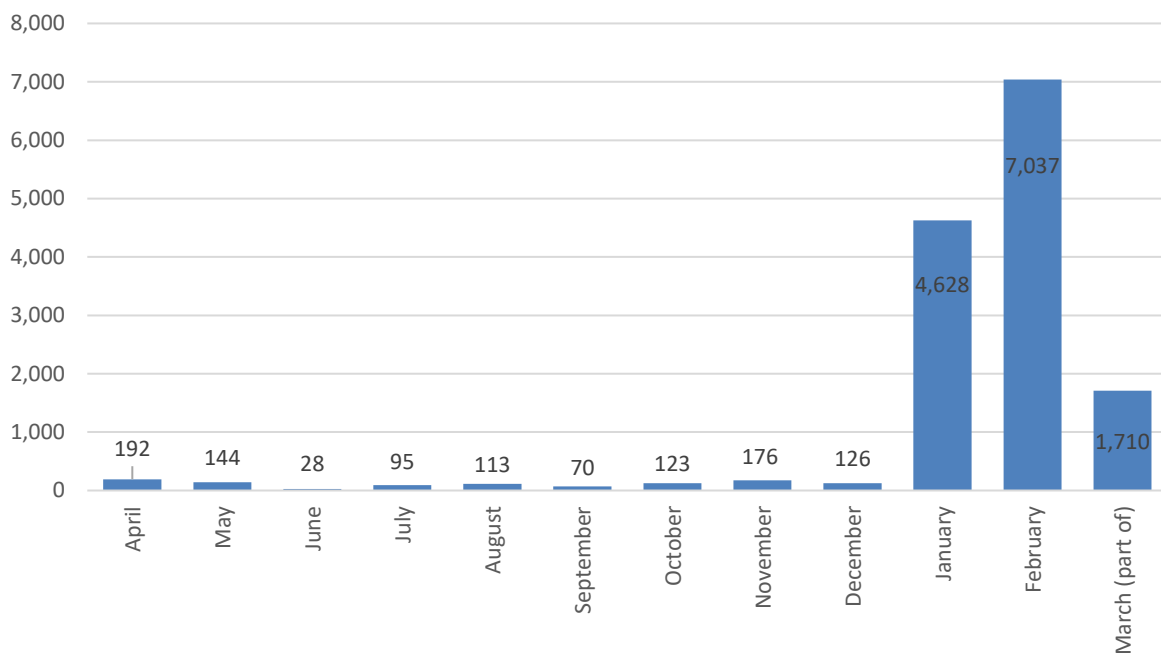
Regulations concerning the use of face coverings remain in place and the levels of fines for breaching the various restrictions remain unchanged.

New measures for the quarantining of international travellers from specified countries in designated facilities are also expected, but the Garda Síochána's role in this is, as yet, unknown.

3 Policing COVID-19 in Numbers

Up to 11 March, 13,019 fixed charges have been issued to individuals for breaches in COVID regulations. These are presented in greater depth in Section 3.1. In addition to this, there were 1,423 incidents where COVID related powers were used by the Garda Síochána that did not involve fines, but may result in charges and/or summonses for individuals. These are outlined in Section 3.2, along with other data relating to policing during the public health emergency. Combined these represent a further increase in the level of enforcement from that shown in the last report by the Authority.

Figure 1: Number of incidents where powers under the COVID-19 Regulations were used or fines were issued, 8 April 2020 to 11 March 2021

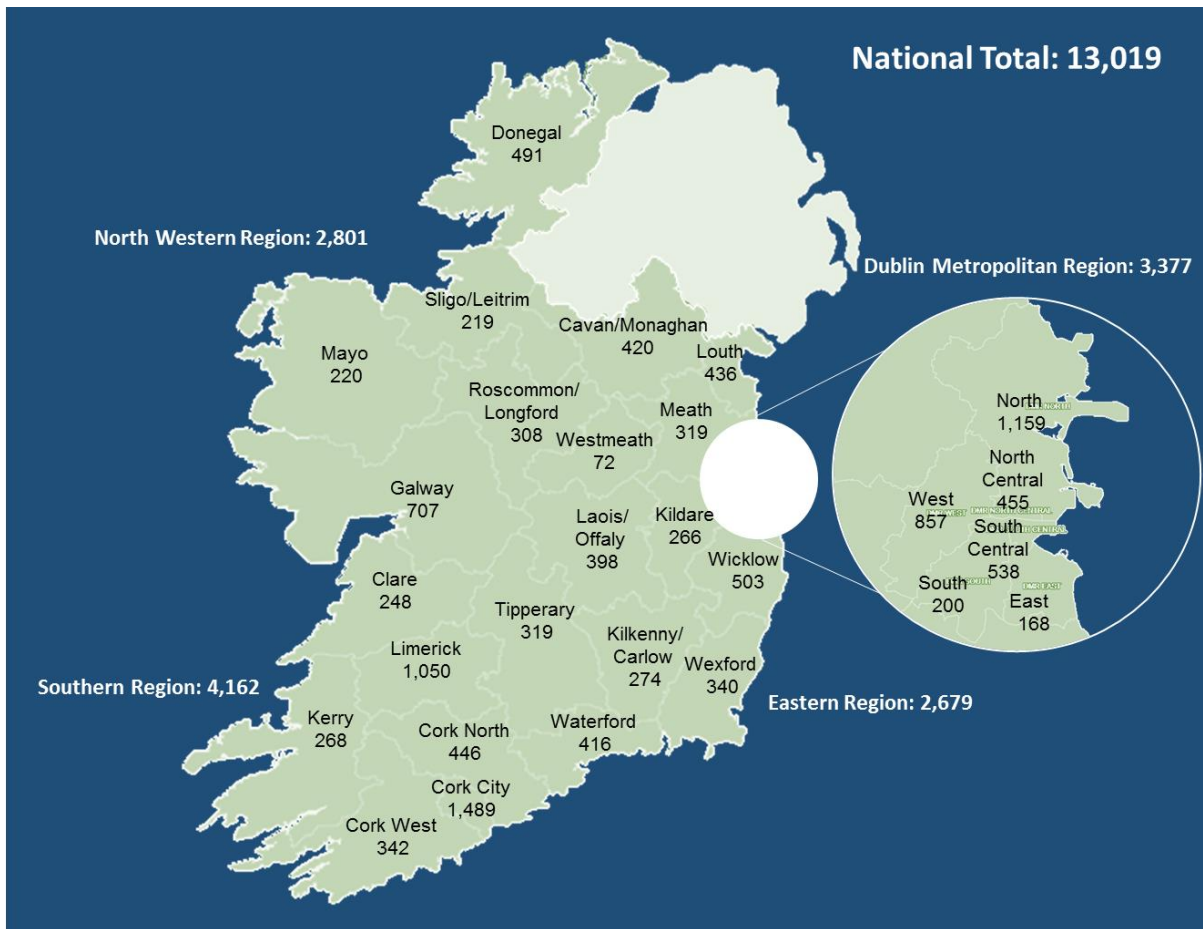


3.1 COVID Related Fines

Up to 11 March, 13,019 fines have been issued for breaches in COVID-19 regulations. This represents an increase of 7,235 since the last report to the Minister which covered up to 11 February.

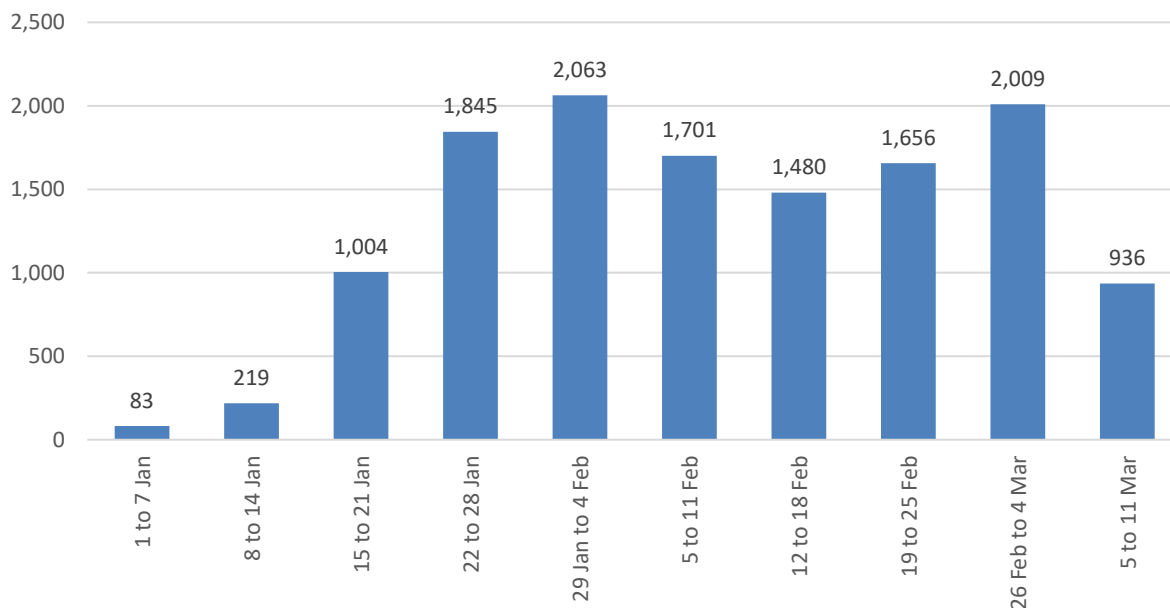
People leaving their homes without a reasonable excuse still accounts for the largest amount of fines issued, at approximately 77% (10,013) of the total. The proportion of fines issued for events has increased since the last report. Approximately 4% (460) were issued to organisers of events, in both non-dwelling and dwellings, while a further 12% (1,620) were issued to those who attended events in dwellings only. Non-wearing of face coverings accounted for just 2% (244). Finally, fines for non-essential international travel accounted for 4% (538) while fines for persons travelling into to the state who are not ordinarily resident accounted for 1% (144).

Figure 2: COVID Related Fines by Region and Division up to 11 March 2021



The highest number of fines were issued in the Southern Region, accounting for approximately 32% of the national total. Cork City, DMR North and Limerick are the Divisions with the highest number of fines issued, standing at 1,489, 1,159 and 1,050 respectively.

Figure 3: COVID Related Fines per week, 1 January to 11 March 2021



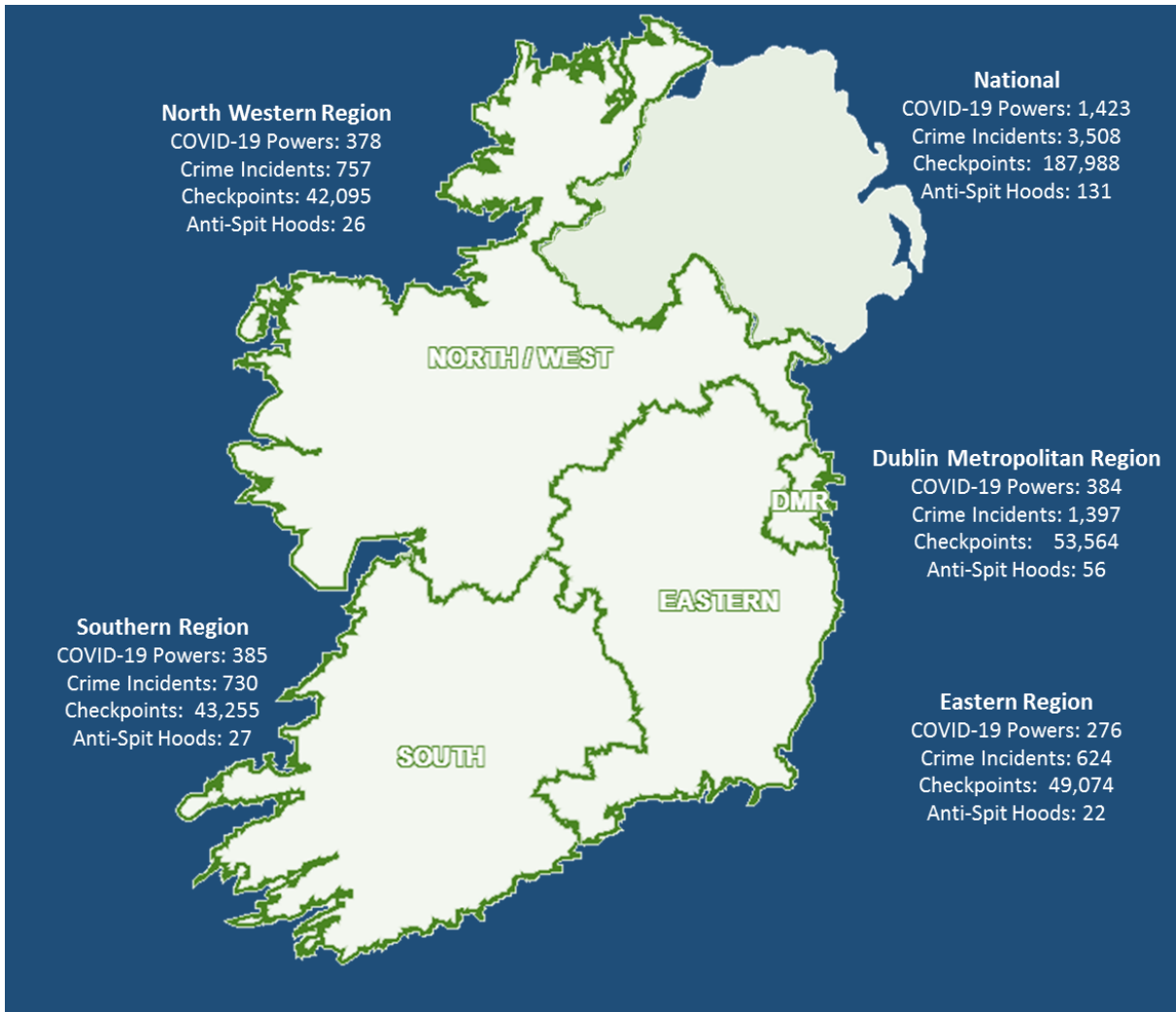
After relatively few fines were issued in the first two weeks of the year, the figures began to increase significantly, peaking at 2,063 for the week ending 4 February. While the number of fines issues decreased marginally in the following three weeks, they peaked again for the week ending 4 March. While these appear to have tailed off once again in the past week, these figures are subject to updates and may reveal a continuing pattern.

In terms of the age and gender breakdown, those aged 18 to 25 received the highest number of fines, accounting for 53% of all fines issued, while males received three times more fines than females, accounting for 75% of the total fines. This represents no change since the last report. At the Authority meeting in public on 25 February, the Authority queried the reasoning behind this trend, to which garda representatives stated that these broadly reflect figures observed in other jurisdictions where fines are issued for breaches of COVID-19 regulations. While not attributing breaches to any one particular group, student activities were cited as one significant source of enforcement activity as was socialising at later times of the day. This was further evidenced during the Authority's recent attendance at the Limerick Joint Policing Committee Meeting where it was stated that more than one third of fines were related to activities in student residential areas.

3.2 Non Fine Related COVID Policing Activity and Enforcement

In addition to fines, members of the Garda Síochána have reported using their powers 1,423 times since 8 April 2020. This is an increase of 182 since the Authority’s last report which covered the period up to 6 February.

Figure 4: Non Fine Related COVID-19 Policing in numbers - summary by region for 8 April 2020 to 6 March 2021¹

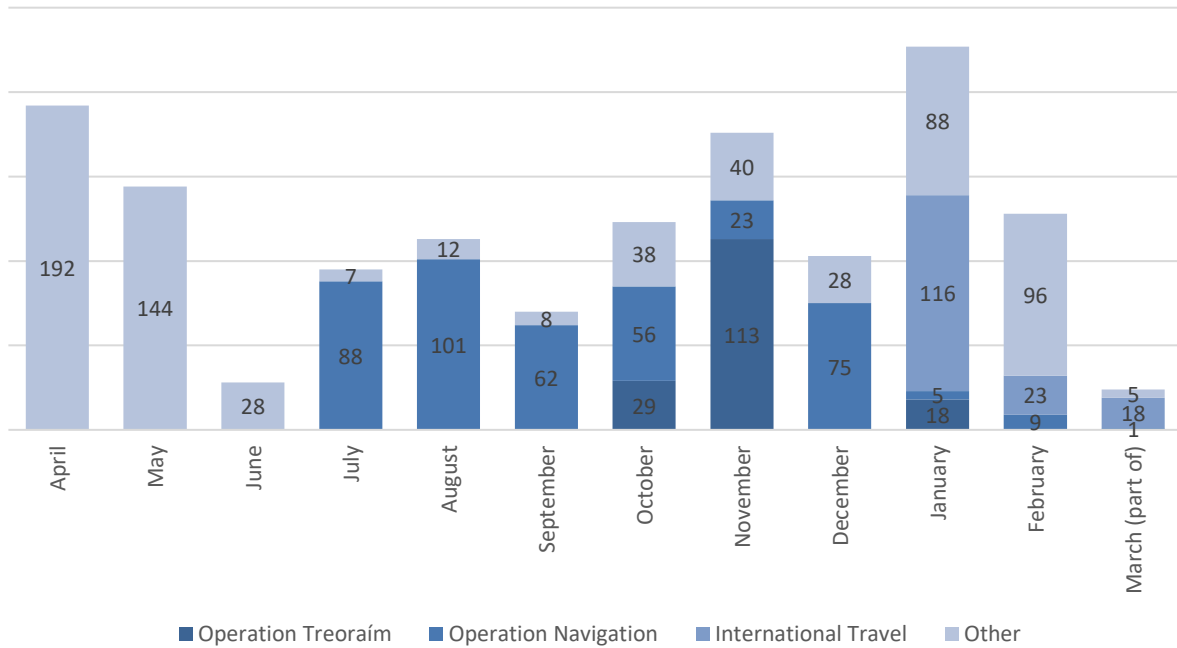


Since the start of the year, there have been 379 incidents where members have used powers under the COVID-19 regulations. With the new restrictions in place, the use of powers on businesses (through Operations Teoraím and Navigation) has naturally declined. The majority of the incidents have involved individual members of the public. The number of incidents relating to international travellers failing to provide a negative PCR test on entry to the country or failing to quarantine, has fallen from 116 in January to 23 in February with 18 reported in the first few days of March.

¹ Use of COVID powers and crime data refers to 8 April to 6 February 2021. 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.

Excluding incidents related to international travel, uses of powers on individuals has increased from 88 in January to 96 in February, with 5 reported in the first few days of March. Of these 189 incidents, 14 relate to face coverings, and are in addition to face covering breaches addressed by FCNs. The remainder of these 189 incidents are not disaggregated.

Figure 5: Number of times powers under the COVID-19 Regulations (excluding fines) have been used per month from 8 April 2020 to 6 March 2021



The Southern Region has now surpassed the North Western Region in terms numbers of incidents, accounting for 385 (approx. 27%) of total incidents since 8 April 2020. This change has primarily been driven by an increase in incidents in Cork City Division. The divisions with the highest number of incidents are DMR North, Cork City and Galway accounting for 135, 103 and 97 incidents respectively. As per the last report, the increases in DMR North and Cork City in 2021 have been primarily driven by breaches of regulations by incoming international travellers who fail to provide negative PCR tests on arrival into the country.

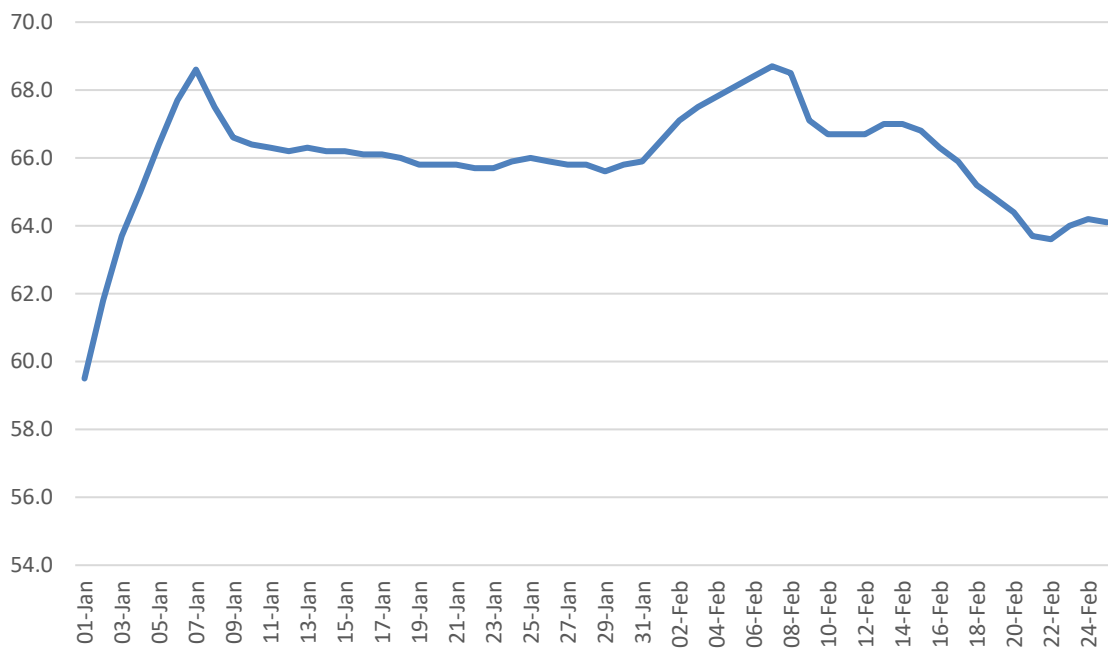
From 8 April 2020 to 6 March 2021 there have been 3,508 crime incidents which were discovered as a result of COVID-19 policing activities. This is a relatively modest increase of 240 incidents since the last report. There has been no significant change to the crime types associated with these incidents with the majority relating to roads, public order and drugs offences.

Checkpoint activity has decreased marginally in February, with approximately 6,500 checkpoints being carried out per week in January compared to approximately 5,500 per week in February. Overall 187,988 checkpoints have been reported to have been carried out since 11 May. However, due to an incomplete data set, this figure may be slightly higher.

3.3 Indicators of Compliance

There is no direct measure of the level of public compliance with the regulations, but a number of indicators are available to gauge people’s movement. The CSO produce a “Staying Local Indicator” which compiles anonymised mobile data to assess the percentage of those who stay within 10km of their home. These figures are based on a seven day rolling average. On 25 February 2021, 64.1% stayed within 10km. This compares 57.8% on 25 February 2020 before any restrictions were introduced. While this points to greater numbers of people staying in their local area compared to pre-COVID, it should be considered that the figure peaked at 76.7% on 15 April 2020 during the initial lockdown.

Figure 6: Percentage of persons remaining within 10km of their home, 1 January to 25 February



Solely looking at figures from 2021, the percentage of those staying within 10km of their home increased up until 7th of January as the new wave of restrictions was introduced and people returned to their permanent residences after Christmas. The figures had remained relatively consistent up until mid-February. However, for the last few days of the period up to 25 February figures have started to decline, indicating that more people are travelling further. It is too early to establish if this is the beginning of a trend or if it is a temporary change.

Another indicator is traffic volumes available from Transport Infrastructure Ireland. The data shows that traffic volumes fell significantly during the initial restrictions in April and May 2020, and increased steadily as the country began to open up. While traffic volumes plummeted in January 2021 and remained considerably lower than the same time in 2020, they are higher than those exhibited during April and May 2020.

While these figures cannot provide definitive evidence of levels of compliance, it would appear the restrictions have generally reduced levels of travel. However, comparing the initial period of restrictions in April and May 2020 to the current set of restrictions, it would not appear that the introduction of fines and higher levels of enforcement has caused any significant difference in

movement patterns for the population as a whole. Anecdotal evidence from the Authority's stakeholder engagement would suggest tolerance and acceptance of the restrictions is waning among some cohorts in particular which is perhaps reflected in the latest movement figures. The Authority will continue to monitor these trends as new data and information becomes available.

4 Stakeholder Engagement

4.1 Outreach

The Authority's engagement with statutory, voluntary and community organisations has continued. Part of the value of this work has been the opportunity to hear the experience of communities over the course of the health emergency. That experience has been neither uniform nor static. Communities have articulated the manner in which people have had to adapt to changing restrictions and ongoing uncertainty and this is the dynamic context in which perceptions of policing performance are being formed, reformed and revised. Engagement during this period has included Joint Policing Committee (JPC) chairpersons, organisations working in rural and urban communities as well as those working with young people and students. There has also been an opportunity to engage with a number of funeral directors from around the country on their experiences during this time and with the Garda representative associations and staff unions. The outcomes of these discussions are set out briefly below.

4.2 Funerals

The impact of COVID-19 on the rites and rituals surrounding death and grief has been devastating for many people and communities. The loss of a loved one during this time has been compounded by the impact of restrictions that deny the family and the community the familiar rituals that offer support, comfort and solidarity. The simple but enduring act of presence at these events has been circumscribed. Funeral Directors have described their experience of facilitating as best they can the ritual of a funeral within what are 'cruel' but necessary limitations. In the main they describe high levels of understanding and compliance from families. A discrete policing presence was described as oftentimes sufficient to ensure that groups attending at cemeteries or communities seeking to articulate their solidarity did so safely.

The directors describe a positive relationship with the Garda Síochána and identify what they see as the difficult position the policing service occupies in being required to police these types of restrictions. While positive about the levels of compliance they sounded a note of caution for the months ahead. The view was expressed that while some things may never return to exactly as they were before COVID-19, funerals and rites around death and grief will return to what they were. Given the nature of these events in terms of the numbers attending and associated traditions which bring people into close proximity – often indoors - the directors believe that the lifting of restrictions around funerals may lag somewhat behind the pace with which other aspects of 'normality' will return. This will be difficult for all concerned. The view was expressed that while some easing on the numbers permitted to attend funerals should happen, policing of restrictions around funerals will become more rather than less important as other restrictions lessen in the coming months.

When asked as to the nature of the policing interventions that will be required, a strong view was expressed that what is needed is not the policing of those grieving but a more proactive policing of the service providers. The point was made that the funeral sector is unregulated and that while guidance has been provided that asks funeral companies to avoid the advertising of wakes, there are a small number of companies that are persisting to offer this service to families. This impacts the likelihood of compliance with restrictions while also disadvantaging those companies within an area

who refuse to offer such services during this time. Reference was made to the absence of legislative ‘teeth’ and the existence in other jurisdiction of fines. However it was felt that an alertness and proactive engagement by the Gardaí with those funeral providers who were seen to flout guidance would be sufficient to dis-incentivise such behaviour.

4.3 The erosion of goodwill

The Authority, in its outreach work, has returned to speak to some communities and organisations again, to hear whether and how their experience has changed over the course of the health emergency. It has also spoken with other communities for the first time.

The palpable goodwill towards the Garda Síochána generated by its work during COVID-19 has been well documented in these reports. Communities have responded enthusiastically to the increased engagement and presence of Gardaí and the role they have played in supporting the vulnerable. A recurring theme has been the degree to which this presence might endure beyond the crisis, not necessarily in terms of the same tasks being undertaken, but rather that the prioritisation of engagement with the community as a primary focus of policing might continue. COVID-19 brought Gardaí into contact with these communities in exchanges that were ‘normal’ and not about law enforcement. Echoing engagement with other organisations, these communities felt a sense of opportunity as to how this new relationship might be leveraged.

Recent conversations with communities however has revealed the dynamic nature of the environment and circumstances brought about by COVID 19 and the impact of that context on how policing is perceived and experienced. For some communities that context has remained steady. For others the length of the COVID crisis has exacted a significant toll and exacerbated the circumstances with which the community has to contend.

The resilience of the goodwill towards the Garda Síochána emerged as a key focus of the conversations with communities in recent weeks and in particular the degree to which that goodwill is being eroded. The sense arising from these most recent conversations is that this opportunity was not ‘capitalised’ upon and that the moment has potentially passed. For one community the positive experiences of policing during COVID-19 represent what they perceive to have been a temporary interlude with little faith that it will leave a positive legacy.

Organisations working with young people in a number of disadvantaged urban areas also spoke to what they believe to be a deterioration in relations with the Garda Síochána during the third lockdown. They spoke of the ‘massive sense of loss and lack of hope’ being expressed by those they work with. Policing actions such as checkpoints and enforcement of the 5km restriction are now more likely to be interpreted as attempts to control the population, rather than an effort to protect the public from COVID 19.

This view was echoed in conversations with another urban based community organisation who spoke of what they perceive to be the damaging effects of increased random stop and search on relations between the Gardaí and young people in their area. Young people were reported as believing that COVID-19 is been used by the Gardaí as an excuse to conduct more stops, to ‘do

policing to them rather than for them’ and the point was made that often the ‘wrong young people’ are being stopped which itself creates more resentment. While appreciative of the work done during the lockdowns, particularly in the area of domestic abuse, the view was expressed that there were instances in which house parties and larger scale parties in accommodation complexes were not policed despite calls from residents.

4.4 Living in a drugs economy

Drug use has increased amongst the young people in these communities and it was reported that a significant number of those who might have taken drugs recreationally are now taking drugs daily, with a resulting accumulation of drug debt and vulnerability to drugs related intimidation. The intimidation is not limited to young people and reference was made to grandparents being held accountable for the drug debts of their grandchildren. The absence of school, the loss of part time work and the lack of ‘spaces for the nice stuff’ has seen some young people become more isolated while others have been drawn into drug related criminality. The experience and effectiveness of youth work was described as difficult in circumstances where gathering and meeting indoors is not possible.

One community spoke to the lack of faith or confidence generally in the Garda Síochána to provide a policing service that meets their needs or to keep them safe. That community spoke vividly of the impact of the ‘drugs economy’ in which they live, the normality of drug dealing and intimidation and the strong sense of helplessness in the community- not of their helplessness - but the helplessness of the Garda Síochána. They outlined how this is communicated to the community through perceived inaction, non-policing of visible crime and a seeming acceptance by the Garda Síochána that the presence, prevalence and impact of drug dealing in their area is beyond its capacity or ability to tackle. While the ‘motions’ of consultation and listening occur, the community reported feeling unheard by the Garda Síochána and they questioned the manner in which policing success is measured. High profile drugs seizures are not, they state, resulting in an improvement in the daily safety of the community or their ability to live without fear in their communities. Successful policing they believe is policing that has an impact for the community.

4.5 Students

Student representatives reported the increased presence of students on campus. Having returned following the Christmas break in early February, students are now more likely to stay on campus during weekends given the travel restrictions but also fears around bringing COVID home to their families. In terms of policing, reference was made to the difficulties being experienced by students attempting to renew visas while the policing of house parties and socialising was described as generally appropriate and proportionate.

The key issues raised concerned communication and trust more generally. In terms of trust, the point was made that students are alert to key debates nationally and abroad as to police legitimacy and that this, for some, frames their attitudes towards the Garda Síochána. Confidence to report crime was described as low, in particular in the area of sexual abuse.

Students in one university reported having received cautionary social media communications from their accommodation provider with imagery showing a Garda presence in the accommodation corridors and outside the complex. While understanding the intent, the impact of the manner in which policing was presented was experienced as intimidating and negative. Better interaction between student representatives and the Garda Síochána was proffered as a preferable approach.

The manner in which the Garda Síochána communicates its key messages was discussed more generally. Acknowledging that the Garda Síochána has increased its presence on social media, notably on Twitter, the point was made that the usage and attention given to different social media platforms varied considerably across different segments of society. Mainstream media is not necessarily how students access news or information about COVID-19 and the associated restrictions. Platforms like Instagram and Tik Toc were referenced as more likely to work well with students. The point was also made that organisations perhaps worry too much about the need to tailor communication to appeal to younger people, when sometimes delivering a clear, straight message would be more credible.

4.6 The experience of policing during COVID 19

In addition to meeting with groups representing communities, the Authority has also engaged with members and staff of the Garda Síochána to listen and develop an understanding of the experience and the issues faced in the course of delivering policing services. As with the general public, that experience has changed as the contours of the health emergency shift and alter. There have been many positives. But Gardaí have also experienced the complexity of policing during COVID 19.

Across these reports the challenging position in which the Garda Síochána finds itself during the health emergency has been repeatedly highlighted by stakeholders. The risk of close contacts and maintaining low rates of infections among the service has required a significant planning and logistics effort. The view was expressed that this has not necessarily been matched by supports from the organisation. While supports such as the Employee Assistance Service and counselling services were still in place, these were more limited due to COVID-19 and budgetary constraints. Issues were raised in terms of lack of PPE, hand sanitisers, and failure to appoint COVID reps in line with HSE guidelines. The issue of priority testing is one which was previously raised, but the focus has now shifted to vaccines, as it is felt that other public services, excluding healthcare workers, are being prioritised ahead of Garda members and staff. These issues were emphasised in the context of new variants of COVID-19.

The challenges are not just in terms of personal safety but also in terms of the volume and nature of the restrictions which they have had to police. Both the organisation and those members which the Authority have spoken to have flagged the challenge that there is in adapting to new regulations as they are introduced. Systems take time to update which creates a corporate risk if done incorrectly. Equally, it takes time to adapt the policing approach. Furthermore, members have spoken about instances of poor communication and lack of sufficient guidance by the organisation in keeping members informed about changes to the regulations.

5 Key Oversight Issues

5.1 Protests and Public Order

The protests which took place on 27 February 2021 in the Grafton Street area of Dublin marked a low point in the policing of the public health emergency, and the violence which ensued resulted in injuries to Garda members. The Authority condemns the actions of individuals who committed these assaults on members of the Garda Síochána and such assaults can never be justified.

From an organisational perspective, there are potential learnings from the events which took place. The Authority understands that an internal Garda review is currently underway to gather lessons and to prepare for future protests and similar gatherings, and it continues to engage with the Garda Commissioner in this context.

In addition to this, the Garda Inspectorate produced a report on Public Order at the request of the Authority in 2019. The Authority discussed progress on implementing the recommendations from this report at its meeting in June 2020. Some significant recommendations were reported to be completed at that time. The Authority will be seeking further updates through its Policing Strategy and Performance Committee meeting on 16 March and the meeting of the whole Authority on 25 March, to assess what impact it has had on the Garda Síochána approach.

In terms of future protests, there is a significant challenge in balancing the restrictions with Human Rights obligations. There is a distinction to be made between the right to protest and the policing of the protest itself, the latter of which should comply with human rights standards irrespective of whether the assembly is “legal” or permissible under COVID-19 regulations.

Whatever considerations may be prompting people to take to the streets and protest, there is little that the Garda Síochána can do to address these underlying issues. Rather, the policing effort can only seek to moderate the outcome of these gatherings.

5.2 Enforcement and Complaints

In the last report to the Minister, the Authority noted the significant increase in enforcement, through both fines and other powers available to the Garda Síochána to police the public health emergency. Some of this increase was explained by lower levels of compliance. House parties and similar gatherings, particularly among the student population and younger adults, was cited as one cause. The Authority queried the degree to which the ‘Four Es’ and the graduated approach to policing was still in place. At its meeting in public on 25 February, the Authority sought explanation from the Commissioner as to these trends. It was stated that the level of enforcement was commensurate with the situation the country faces in terms of the rapid rise in cases. The Commissioner provided reassurances that the ‘Four Es’ were still in place. However, for more blatant disregard for the restrictions, which had been demonstrated by some individuals, enforcement was found to be appropriate.

The Authority also queried the degree to which there was consistency in the use of powers and issuing of fines in different parts of the country and among different cohorts. In response, the Garda Síochána stated that where fines are issued, in the case of non-essential journeys, the reason for the journey, provided by the recipient of the fine, is recorded. The incidents are reviewed at District and Station level by managers. There is a further check which takes place at the FCPO office and should

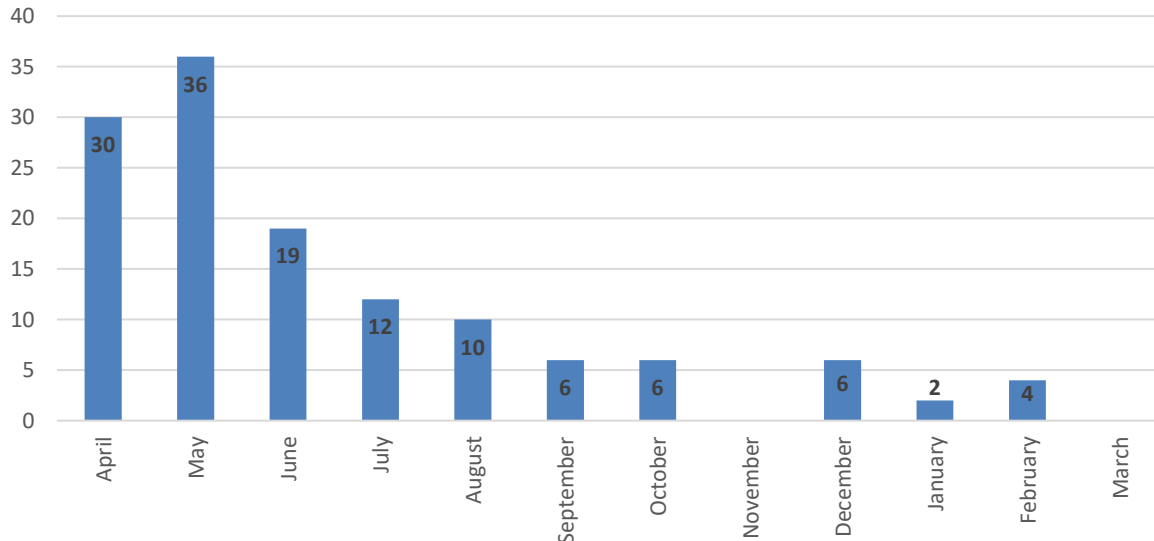
this not satisfy the criteria for issuing a fine, a fine is not issued. Furthermore, the senior management of the organisation review cases and trends on a regular basis.

Despite the high level of enforcement, instances of complaints have been relatively low. GSOC has reported that it received 450 contacts, which in some way related to the Garda Síochána's policing of COVID, during the period from when policing of the restrictions began last year, up to 8 March 2021. It is understood that the more recent contacts frequently concern travel restrictions and checkpoints. However, it is also important to note that not all of these contacts passed or will pass admissibility requirements and some are regarded as inadmissible or not meeting the statutory requirement to be treated as a complaint. No further breakdown is available to conduct a trend analysis.

5.3 Anti-Spit Hoods

The availability of anti-spit hoods remains a concern for the Authority. It sought an update from the Commissioner on the evaluation of the use and management of anti-spit hoods at its meeting on 25 February. The Commissioner stated that he had reviewed the evaluation and has some concerns relating to issues such as timelines against recommendations in the evaluation. As such it has not yet been finalised or provided to the Authority.

Figure 7: The number of applications of anti-spit hoods by the Garda Síochána by month, 12 April 2020 to 6 March 2021



To date there have been 131 incidents involving anti-spit hoods recorded, including two additional incidents since the last report. This low level of use in the context of increased spitting assaults on members (as demonstrated in Section 5.4) demonstrates considerable restraint on the part of members. An assessment of the figures provided reveals;

- 64 of the incidents involved public order offences while 35 were associated with some form of assault.
- Seven of the incidents involved use of a spit hood on a child.
- 110 incidents involved use of the devices on men while 21 relate to use on women.

- 107 involved persons with Irish nationality and 24 relate to other nationalities. There is no data available on the ethnicity of the persons involved.

Due to the seriousness of use of anti-spit hoods, the Authority receives more detailed reports for individual incidents, to ensure the narrative provided corresponds with Garda Síochána policy and guidance. Due to low levels of recent use, the Authority has not received any new reports since the last report to the Minister. As per the last report, analysis of the 123 incidents for which reports have been received reveal the following;

- In 17 incidents, the Garda member perceived the detainee to have obvious signs of a mental health issue. This was not the case in 76 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 91 incidents and it was unspecified in a further 31 incidents.
- In 84 incidents, the Garda member perceived the detainee to demonstrate obvious signs of intoxication. This was not the case in 21 incidents and it was unspecified in a further 18 incidents.

5.4 Wellbeing of Garda Members and Staff

The State's positive human rights obligations in respect to health, life, and safe and healthy working conditions extend to Garda members and staff as much as they do to the public. At the frontline of the pandemic, members of the Garda Síochána remain at high risk of contracting COVID-19. The protection of members and staff is essential to ensure sufficient capacity to deliver a sustained policing and community engagement effort, and in turn to safeguard the fundamental human rights of others. With the rise of cases in the wider population, cases had also increased among the Garda workforce. By the end of February this threat had subsided for the organisation and 95% availability was reported.

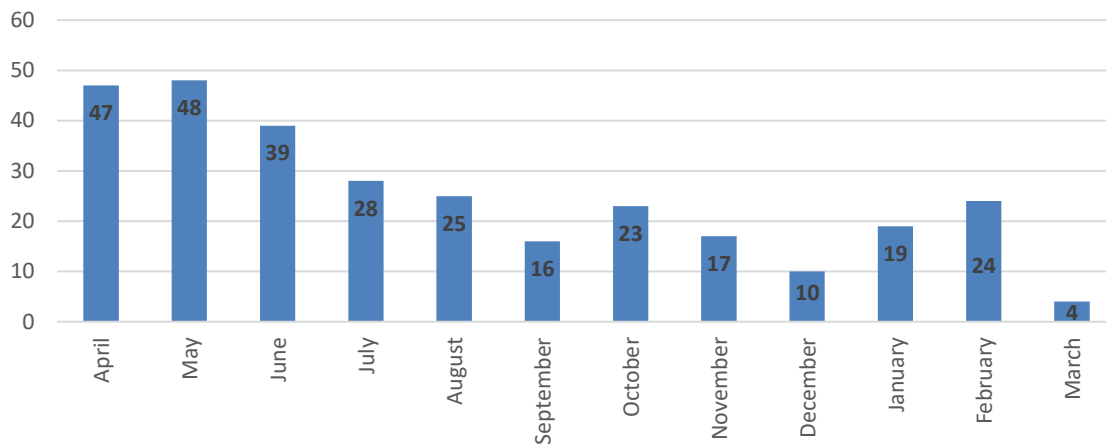
At its meeting on 25 February the Authority questioned what provisions were in place to support members and staff of the Garda Síochána. In terms of more general health and safety, the organisation has been providing communications multiple times per week offering health, safety and wellbeing advice. It was also reported that audits on Garda facilities are being carried out weekly to ensure health and safety requirements are met.

In terms of support for individuals, the Employee Assistance Service was cited as a key mechanism which members can reach out to. Furthermore, it was reported that this service is proactive and automatically contacts those members and staff who contract COVID-19 or are injured while on duty. It was also reported that there is a counselling service available to members as well as peer support at a local level. Despite these reassurances, it was separately reported to the Authority that the Employee Assistance Service, while active, is not offering out-of-hours service, reportedly due to budgetary constraints, while it was also reported that the counselling service does not currently offer face to face interaction. This is a matter which the Authority will discuss further with the Commissioner at its next meeting on 25 March.

Among the Garda workforce, concern has been expressed about the lower prioritisation of vaccines for Garda members and staff, relative to other services.

A particularly concerning feature of policing COVID-19 has been spitting assaults on members of the Garda Síochána. These have been increasing since December with 47 such incidents so far in 2021, bringing the total to 300 since 12 April.

Figure 8: Monthly breakdown of the number of assaults on Garda members who have been coughed on or spat at, 12 April 2020 to 6 March 2021



5.5 Policing to Protect Human Rights

Human rights is at the core of policing and of policing oversight. The public health emergency has seen the Garda Síochána balance both protections and restrictions of human rights. The powers were afforded to members to enforce restrictions, protect life, bodily integrity and health, through preventing the spread of COVID-19. Protections have been observed in more specific areas - most notably in the focus on domestic abuse and gender-based violence. This has, justifiably, been contrasted by the interference with people's liberties and the taking of action against those who breach restrictions.

International bodies have stated that such restrictions are justified, but qualified this justification with moderation. The Council of Europe stated while heightened restrictions to rights may be warranted in a time of crisis, harsh criminal sanctions should be subject to a strict scrutiny. It stated that there must be a balance between compulsion and prevention in order to comply with human rights proportionality requirements. Similarly, the United Nations Office of the High Commissioner for Human Rights (OHCHR) stressed that exceptional measures must be enforced humanely, respecting the principle of proportionality and ensuring that penalties are not imposed in an arbitrary or discriminatory way. Fines should be commensurate to the seriousness of the offence committed and consideration should be given to the individual circumstances, including gender-specific impacts.

In an Irish context, IHREC recently published a detailed report entitled *'Ireland's Emergency Powers During the Covid-19 Pandemic'* which reflects some of the findings of the Authority's oversight findings from the last year. IHREC noted the potential for enforcement powers to be exercised by the Garda Síochána in a way that disproportionately affects groups such as young people, ethnic and racial minorities, and Travellers and Roma. While the Authority has addressed the high levels of fines and enforcement directed at younger members of the population, the extent to which this is known for ethnic minorities cannot be fully assessed until such time as ethnic indicators are available. From the outset of the introduction of powers, the Authority has called for greater levels of disaggregation

of enforcement data, including ethnic indicators. In particular, the Authority has included in previous reports details of its engagement with the Garda Síochána to develop recording and reporting of ethnic indicators and is continuing to pursue this area.

With respect to the recent introduction of fines, while these are a legitimate means of enforcement from a human rights perspective, the rigid nature of these lends themselves to disproportionately affect those in lower socio-economic groups or the unemployed. This is particularly pertinent during the pandemic where many are facing challenging financial circumstances and where younger adults are the main recipients of fines.

In relation to enforcement, the vagueness of some exceptions and what constitutes a reasonable excuse also raises concerns. This may reflect findings from the Authority's engagement with Garda members which speak to the complexity of adapting to new regulations, as well as criticisms about communication within the organisation and to members responsible for the enforcement of regulations. It also reflects the lack of knowledge of restrictions which was found to be particularly prevalent among some cohorts within the population, during the Authority's stakeholder engagement.

At the outset of restrictions the Authority raised concerns about community relations, which has been borne out in some of the stakeholder engagement employed in this series of reports. The requirement for the Garda Síochána to stop and question the public and seek information and addresses is legitimate and reasonable from a human rights perspective, but may damage, or in cases worsen, the relationships the Garda Síochána has with some communities in particular.

Appendix 1 – Graphical summary of certain policing activities

Figure 9: Reported use of COVID-19 policing powers by Garda Division, 8 April 2020 to 6 March 2021



Figure 10: Distribution of crime incidents disclosed during COVID-19 policing activities by region, 8 April 2020 to 6 March, 2021

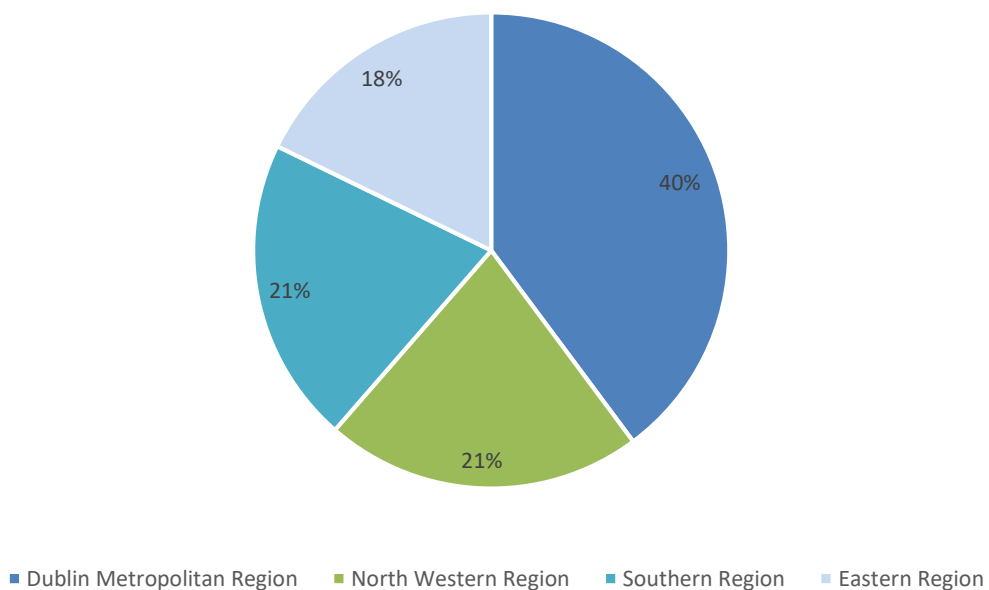


Figure 9: Checkpoints carried out by region, 1 to 7 March, 2021

