



AN TÚDARÁS PÓILÍNEACHTA
POLICING AUTHORITY

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

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

20 May 2020

Contents

Chairperson’s Foreword.....	1
1 Introduction	4
2 Policing COVID-19 in Numbers.....	5
2.1 Introduction	5
2.2 Use of Powers under the Health Act, 1947 as Amended.....	5
2.3 Incidents Associated with COVID-19 Policing Activities.....	6
2.4 Road Checkpoints.....	7
3 Outreach	9
4 Commentary on Some Key Oversight Themes	13
4.1 Use of Powers and Use of Force	13
4.2 Community Engagement and Service to Vulnerable Groups	17
4.3 Wellbeing of Garda Members and Staff	17
4.4 Policing to Protect and Respect Human Rights.....	18

Chairperson's Foreword

This, our third report to the Minister for Justice and Equality, covers the two-week period to 16 May and the cumulative period since the COVID-19 Regulations came into effect. It is submitted two days after the introduction of Phase One of the graduated lifting of restrictions on activity.

The primary purpose of these reports is to provide to the Minister and to the public the outcome of the statutory oversight undertaken by the Authority of the discharge by the Garda Síochána of the new, and temporary, powers granted by the emergency legislation and the associated regulations.

The Garda Síochána reports that these powers were used on 241 occasions since the coming into effect of the regulations. In the almost forty days that have elapsed, the use of these powers on an average of six times each day represents a modest level of enforcement and a remarkable degree of compliance by the public.

The Authority would have wished to be able to give a clear indication of the extent to which the five separate powers were exercised by gardaí and to be able to offer a view on the extent to which their use was appropriate and proportionate. The Authority would have wished, in particular, to identify those occasions when a Garda directed a person and that direction was complied with. Such directions, although they must be considered to be a use of an emergency statutory power, do not appear to be recorded where they are followed by compliance. We cannot report on the exercise of the power as we would have wished, because the necessary information on which to make such a report and to found such a judgement, has not been made available by the Garda Síochána.

As stated earlier, the level of the use of these powers, given the extensive level of engagement between gardaí and the public, was, indeed, modest. It is, however, a source of considerable disappointment that no more detail than the location and time of the individual events is available.

Much discussion has taken place in recent weeks between the Authority and the Garda Síochána at the most senior levels and, I have no doubt, much time has been spent in the Garda Síochána in considering the matter. However, the Authority finds it very difficult to understand why it is not possible to indicate which of the powers was invoked on each occasion.

Knowing that would add greatly to the public's understanding and confidence in the use of these powers and would also contribute to the shaping of future public policy. Knowing more of the circumstances would also add significantly to a better appreciation of the approach taken by the Garda Síochána in these limited number of cases. Such information would not detract in any way from the consideration of whatever action may fall to be taken in their regard.

The Authority will continue to encourage the Commissioner to make a greater level of detail available so that these reports to the Minister and the public can become more complete.

The concern about the availability of data does not obscure the scale of the task that faces the Garda Síochána and the extent of the resources that are being committed. Once again, the Authority notes and records its appreciation of the extent of the Garda Síochána's engagement with the public throughout this health emergency. The breadth and depth of the community engagements are impressive by any standard and the appreciation of this work, especially by those who are vulnerable, is amply reflected in the section of this report that considers the outreach work the Authority executive has undertaken. That rich analysis in Section 3 contains much that will merit

reflection when considering future policy and practice. The Authority will wish to review the experiences reflected in this and related material at an early stage.

The easing of the restrictions in recent days is greatly to be welcomed but there is a concern that it will pose difficulties for the Garda Síochána in its policing task. The Regulations have been renewed, with some minor amendments but substantially in their original form. The underlying primary legislation remains in force unchanged and, for the moment, unchangeable.

The challenge of policing any regulations when differing rules or advice pertain to increasing numbers of people or categories of people – each of whom can be appropriately and legitimately out and about - is self-evident. The sifting through the many thousands of people involved would be very demanding on Garda resources and could well serve to diminish the support from the public that the necessary restrictions have hitherto enjoyed. The Authority will continue to engage with the Commissioner on this question and reflect further on it.

In its dealings with the Commissioner on the provision of data on the use of the emergency powers and on the deployment of Anti-Spit Hoods, the Authority has sought to obtain some level of insight into the ethnic origins of those involved. This is a matter still under consideration but it may be of value to indicate why it is a subject of interest in the oversight of policing. There are several reasons and some merit particular mention.

In the first instance, Ireland is a country of increasing diversity and, while the laws of the land apply equally to all, it is important to be certain that that fundamental principle is reflected in daily experience. This is not to suggest that the Authority has reason to believe otherwise but experience tells us that involvement with the criminal justice system is not evenly distributed across the population of any state. It is important in the public interest, and for the shaping of public policy, that we have as much information as possible, especially in respect of the use of these unprecedented powers.

Secondly, it must be a matter of considerable interest for the Garda Síochána that it have the most comprehensive understanding of the composition of those with whom it engages, of those who come to its attention and in respect of whom its powers are used. The organisation has taken the welcome step of developing and recently introducing a Diversity Strategy which is, in the nature of things, a work in progress. However, it is an important statement of its understanding of the reality of serving a diverse population and of the requirement that its own composition moves to reflect, as soon as possible, the changing shape of the community it serves. Greater awareness of the composition of those who come within its remit can only be beneficial.

Finally, there is the fact that Section 42 of the Irish Human Rights and Equality Act imposes duties and responsibilities on the Garda Síochána the discharge of which requires, and will be enhanced by, a fuller understanding of the question of ethnicity among the other considerations dealt with in the Act. The Authority is also bound by Section 42 and that applies to the exercise of its oversight role as well as to all else it does.

The previous reports have both referred, as does this one, to the use of Anti-Spit Hoods – or Anti-Spit Guards. The Procedure document provided to Garda personnel identifies the context within which these can be used, which is intended to be confined to extremely restricted circumstances. It is important that the significant limitations on the use of these devices are widely understood and they are outlined within the body of this report. The Authority will continue to evaluate their use so

as to satisfy itself and to reassure the public that the very specific conditions are being observed. The continuing interest in this use of force does not in the slightest degree diminish the Authority's abhorrence, which I reiterate here, of the use of spitting as an assault on Gardaí or on others.

The Commissioner has provided a clear indication of the circumstances – and of the influence of emerging public health policy and internal medical advice from his Chief Medical Officer – that prompted changes in the approach to testing of Garda members and to the use of face coverings. The wellbeing and safety of Garda personnel and of the public are abiding concerns and will be the subject of continuing engagement with the Commissioner.

The Authority will also review in some detail with the Commissioner at its next meeting the intentions in respect of the training of the next intake of Garda recruits as well as the plans to complete the training of those Garda members who were attested before their training had been completed.

Bob Collins

Chairperson

1 Introduction

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

The main purpose of this reporting has been to consider whether the exceptional powers conferred on the Garda Síochána during this public health emergency have been used proportionately and only when necessary. In an effort to better understand how these powers have been used to date, information was requested from the Garda Síochána as to how many times each of the five powers afforded to Gardaí under the emergency legislation¹, were used, including 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 committed to providing this breakdown, initially for the week ending 9 May, and after not being able to achieve that target, for the week ending 16 May. It is therefore a source of disappointment to report that the Garda Síochána have failed to deliver this information again. Given the infringement these powers represent on an individual's human rights, it is concerning that these powers have not been recorded adequately and that there is insufficient data to inform both internal and external oversight. This will be further discussed in Section 4 of this report.

Given the limitations described, this report is based on the same categories of data presented in the last report, updated to reflect the past fortnight and is presented in Section 2. While more comprehensive data may be lacking, the Authority has been able to glean rich, qualitative information from other stakeholders which provides information about other aspects of policing during the COVID-19 outbreak, and reflects the work done by the Garda Síochána among various segments of the population. This is presented in Section 3. The final section reflects on key oversight issues and is based on the Authority's engagement with the Commissioner and members of his Senior Leadership Team.

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

2 Policing COVID-19 in Numbers

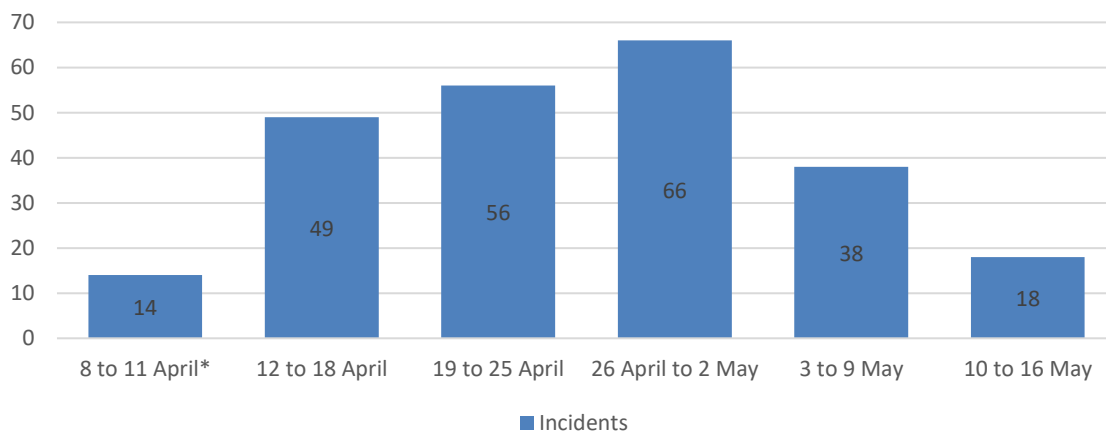
2.1 Introduction

The information presented in this section represents a summary of operational information provided by the Garda Síochána to the Policing Authority on 19 May 2020 for the cumulative period from 8 April 2020 to midnight on 16 May 2020.

As noted in the last report, the data consists of near real time extracts from PULSE, CAD and other supplementary sources including manual returns and is therefore subject to change, through either ongoing clarifications or new reports for the period in question². This data is also only reflective of use of powers. It is noted that the vast majority of garda interactions with the public involve engagement, explanation and encouragement which, in the view of the Garda Síochána, do not represent a use of powers and are not recorded. As such, this section does not reflect the array of policing activities being undertaken during this time.

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

Figure 1: Number of times powers under the Health Act, 1947 have been used per week



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

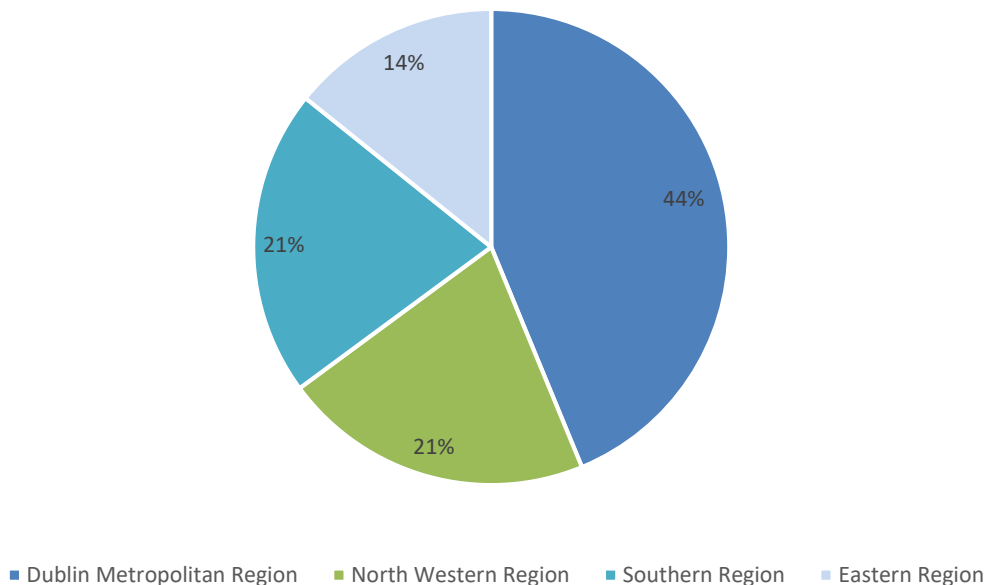
- For the week ending 16 May 2020, there were 18 incidents where powers under the Health Act, 1947 were exercised.
- This represents a decrease of approximately 52% on the previous week and follows a reduction of 42% in the previous week. This sustained pattern of reduction is a positive and welcome indicator.
- These new incidents bring the total number of times these powers were exercised since their introduction to 241.
- The Garda Síochána has stated that two of these incidents were at the direction of a health professional, which represents no further increases from previous weeks.

² The data is therefore not suitable for statistical analysis such as linking with other sources, comparisons or the construction of time series or trends.

- The North Western Region accounted for 99 (41%) of incidents since 8 April and remains the region with the highest number of such incidents. One station in the North Western Region had ten incidents associated with it, while two stations in Dublin Metropolitan Region had eight and seven incidents associated with them respectively.
- Overall, our detailed examination of the geographic distribution of the use of powers does not identify any issues of the use of powers being centralised in one locality.
- A further 18 incidents are being reviewed to determine their exact nature and may result in an increase to the overall number, or may be deemed not to be a use of these powers and therefore excluded from future analysis. Incidents which had been noted as requiring clarification in the last report, have resulted in some increases to previous weeks' figures.

2.3 Incidents Associated with COVID-19 Policing Activities

Figure 2: Number of incidents associated with COVID-19 policing activities by region, 8 Apr to 16 May



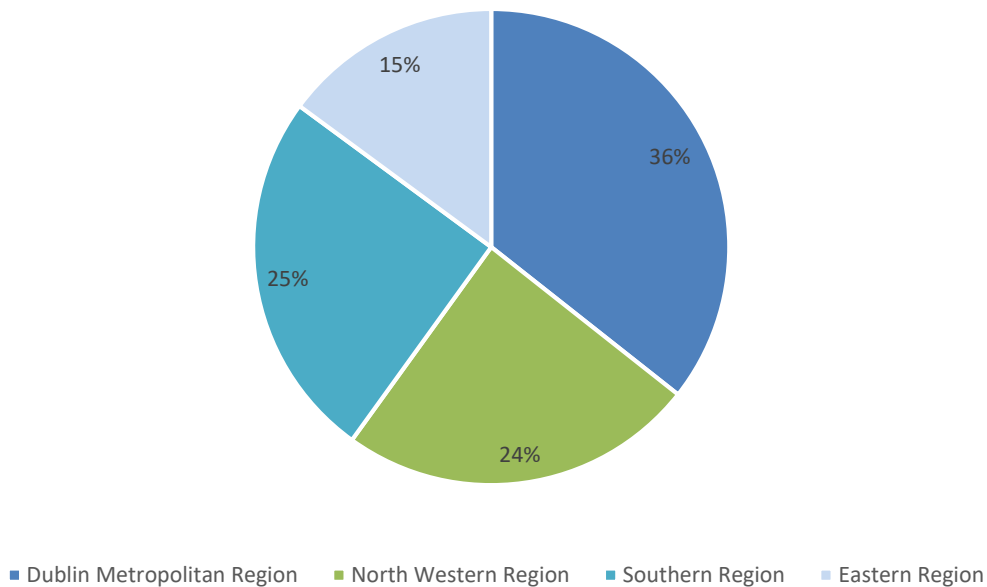
- From 8 April to 16 May 2020, there were 1,621 crime incidents which represented suspected offences disclosed or uncovered as a result of COVID-19 policing.
- In the previous report to the Minister, for the period 8 April to 2 May, there were 1172 such incidents. This means an additional 449 incidents have been recorded or confirmed in the past fortnight (a 38% increase). It is noted that some of these “new” incidents may have occurred prior to the 2 May but were not included in previous totals due to not being validated at that time.
- Approximately 20% of these offences relate to public order, while a further 16% relate to simple drug possession. General road offences was the third most frequent offence classification accounting for approximately 12%. However, when all types of road offences are combined, they account for approximately 34%. The proportion of all incidents accounted for by all of these incident types has not changed significantly since the last report.

2.4 Road Checkpoints

Indicative data has been provided for the number of checkpoints carried out across the country for the period 11 to 17 May. During this time, in excess of 11,000 checkpoints were carried out, which is broadly on par with the volume of checkpoints reported for previous periods.

In the previous report, it was highlighted that for four sample checkpoints where accurate counting could be conducted, 13,324 vehicles were counted for all four, of which only 21 (0.16%) were turned back. There have been no reports to suggest this level of turn backs has changed.

Figure 3: Checkpoints carried out by region, 11 to 17 May



- Of the checkpoints carried out for the week 11 to 17 May, 36% occurred in Dublin Metropolitan Region (DMR).
- Within DMR, the highest number of checkpoints were carried out in DMR North accounting for approximately 21% of all DMR checkpoints. The next largest number were carried out in DMR South accounting for almost 19% of all DMR checkpoints.
- Outside of DMR, the largest numbers of checkpoints were carried out in Galway, Cavan/Monaghan, Donegal and Cork North.

The performance of road checkpoints is, but one dimension of the policing activity being undertaken, much of which takes place on the street or while on patrol. The number of checkpoints by Division during the week from 11 to 17 May as set out in the table below demonstrate that the performance of road checkpoints is a significant use of Garda resources and is taking place all over the country. During ongoing discussions with the Garda Commissioner and his senior colleagues, the Authority has been informed that the decision on whether these checkpoints are carried out and the locations in which they are carried out are largely dependent on three factors. Firstly, they are guided by the presence of significant road networks and a focus on roads leading to the coast and

key beauty spots. Availability of members to conduct checkpoints is also a factor and it is accepted that planned checkpoints may be interrupted as emergency response is required or resources are needed to address other priorities. Finally, traffic counts produced by Transport Infrastructure Ireland also provide a degree of guidance for the Garda Síochána on checkpoint locations.

Table 1: Indicative numbers of checkpoints carried out by Division from 11 to 17 May

DMR		North Western Region	
DMR North Central	602	Galway	640
DMR South Central	625	Mayo	137
DMR North	843	Roscommon/Longford	273
DMR South	753	Louth	200
DMR East	563	Donegal	621
DMR West	456	Sligo/Leitrim	309
DMR Roads Policing	227	Cavan/Monaghan	597
Total for DMR	4,069	Total for North West Region	2,777
Southern Region		Eastern Region	
Clare	337	Laois/Offaly	291
Cork City	365	Westmeath	198
Cork North	519	Wicklow	113
Cork West	449	Meath	224
Kerry	416	Kildare	105
Limerick	334	Waterford	325
Tipperary	451	Kilkenny/Carlow	124
		Wexford	322
Total for South Region	2,871	Total for Eastern Region	1,702

3 Outreach

Since the submission of the previous report to the Minister, the Authority has continued to engage with a range of statutory, voluntary and civil society organisations to gain an experiential perspective on policing performance during the COVID-19 crisis. Engagement during this period has included Joint Policing Committee (JPC) chairpersons, and organisations working in such areas as child protection, domestic abuse, victims’ support, youth and community work and migrants’ rights.

The outcomes of these discussions are set out briefly below.

Crime Environment

Organisations spoke to the evident increase over the period in the area of domestic abuse and its impact on children and young people. Frontline child protection services reported a rapid and sustained increase in the number of children who were reporting concerns about domestic violence following the onset of the current restrictions. During the current crisis, they stated that the level of risk for children is higher than normal, both in the home and online. More time spent online during this period brings an increased risk of child protection issues, both in terms of engagement with adults online and peer to peer online bullying.

Frontline services in the area of domestic abuse spoke to the changes in the patterns of engagement during this period, which have seen significant ebbs and peaks on a weekly basis in the numbers of victims contacting and accessing services, reflecting they believe, the changing circumstances victims are contending with during the emergency as the restrictions change. Joint Policing Committee (JPC) Chairpersons praised the communication and focus of the Garda Síochána, both locally and nationally, on domestic abuse voicing concerns relating to trends in this area, noting that there has been an increase across certain counties of instances of domestic abuse and mental health related incidents – in both incident severity and frequency – and other crimes of a ‘behind closed doors’ nature.

A local victims’ support group reported that although numbers of callers accessing their services have decreased in recent months, the types of crime reported to them remain unchanged. The group highlighted that the threat of COVID-19 can add an additional element of fear for victims of crime. For example, when older people who are cocooning are victims of burglary, they have encountered an additional worry reported by victims that the perpetrators may have brought the virus into their home. Changes to the operation of the courts and uncertainty regarding dates for submission of various documents have contributed to victims’ uncertainty. The fact that staffing levels in the Garda Victims Services Offices have been maintained during this period with no evident redeployment to other areas of policing was appreciated and considered important in terms of providing a service to victims of crime.

Despite a drop in crime rates generally, some JPC Chairpersons reported that illegal dumping has seen constant if not increased rates of offending. This has been attributed in a number of cases to the classification of litter wardens as a non-essential service, thereby removing a resource essential to enforcement.

Organisations working in the anti-human trafficking area believe that it is too early to quantify any discernible impact in that area of crime since the onset of the COVID 19 emergency.

Appropriate and responsive policing

Increased Garda visibility, engagement and proactivity were cited across the majority of the various organisations as characterising the policing response. Garda visibility within the community and engagement with individuals and community groups was credited with contributing towards a greater sense of security in the community. Reference was made to the current policing response as representing a return to ‘knowing your local guard’ and ‘community policing as it used to be’. Feedback from a broad range of stakeholders was overwhelmingly positive regarding engagement with Community Gardaí since the onset of the COVID-19 crisis. It was reported that new relationships are being developed with community guards. Community Gardaí are in contact with vulnerable people and their families more so than before, and the hope was expressed, for example, by those working in the child protection sector that these members would be alive to the possibility of child protection and child welfare issues, and that they would work to direct families to local support services if necessary and appropriate. This echoes views expressed in the previous report about the importance of engagement for community Gardaí to develop tacit knowledge about the communities they serve.

JPC Chairpersons have been quick to praise the increased focus and resourcing on Community Policing and what they describe as the reasoned, proportionate response of the Garda Síochána when dealing with the public. This praise also extended to the engagement of Gardaí at the local level with minority and vulnerable communities.

A very positive response in relation to child protection and welfare issues has been reported, with evidence given of good inter-agency work in this area, oftentimes ‘led by the Garda Síochána’. The number of child protection referrals to the Gardaí over the last number of weeks was discussed and the response received from the Garda Síochána was described as being ‘overwhelmingly positive, without exception’. It was reported that child protection concerns are consistently taken seriously by the Garda Síochána and that while an excellent relationship exists with the Garda National Protective Services Bureau, many of the referrals are made to local Garda stations and that the response received is consistently good.

There was an awareness of the need for increased Garda resourcing in the area of cyber-crime generally and it was emphasised that it is important that the Garda Síochána directs sufficient resources towards the detection and investigation of online crimes towards children generally and not just during this period of increased vulnerability. Examples were given of the support children receive from the Garda Síochána when they come forward to report bullying. Those working in child protection would like to see a clear message coming from the Garda Síochána that would reassure children that they will be supported when they make reports.

Those working in the area of youth work, who by the nature of their work interact, cooperate and work together with Garda Members routinely, questioned the designation of youth work as non-essential. They felt that there is an opportunity for this type of work to continue to function within

public health guidelines and that this could fulfil a role in ensuring that young people comply with social distancing rules. There was confidence expressed that a team consisting of the community guard, the juvenile liaison officer and the youth worker could establish a plan for a continued youth work programme. The sense was that when it comes to ensuring that young people comply with social distancing guidelines, education is what is needed rather than enforcement. It was stressed that there was no sense that the policing response to young people has been disproportionate. Young people and children have referenced interactions with the Gardaí in their contacts with one of the organisations, in terms of the social distancing requirements. No issues were reported regarding the manner in which this was done and while young people decried the impact of the restrictions, they reported understanding the role that Gardaí are playing during this time. However, as time goes on, youth work could, it was believed, play an important element in encouraging compliance.

Early concerns amongst certain groups regarding how the policing of the restrictions would affect them are reported as having been significantly allayed by communications from the Department of Justice and Equality. These include undocumented migrants who feared that their immigration status may be highlighted in their interactions with Gardaí regarding COVID 19 and it was reported that early contact with the Garda National Immigration Bureau may have been helpful in allowing support organisations to provide reassurance to migrants. No such issues have been reported to the support groups with which the Authority has so far engaged.

JPC Chairpersons have cited the Garda Síochána's utilisation of local media and the text alert scheme as being important in terms of keeping the general public informed. In border counties, communication through these channels and between stakeholders was identified as key to reassuring communities, in light of increased national media attention, which was described in certain respects as being at odds with the experiences on the ground within these counties. Communication across the country between the Chairpersons and local Garda management varied, with some engaging on a weekly, if not more frequent basis, while others were yet to engage on any meaningful level. Without exception the Chairpersons noted the success of the Community Response Forums that have been established but many saw a need for JPC representation on these structures. Again levels of communication between the Forums and the Chairpersons varied and this raises concerns as to the consistency of or potential for local policing oversight across the country during this time.

Sustainability and Longevity of Response

The sustainability of the response was discussed across the many stakeholders. There was an acknowledgement that the policing response is the result of a particular emergency context. However, many organisations expressed the view that the community would benefit from the retention of many of the positive aspects which have been delivered. There was a concern expressed across many organisations that the end of this COVID emergency period would see a contraction of engagement at community level and that this will result in an unwelcome diminution of the service. This is not to say that organisations did not recognise that at community level certain activities would no longer be needed, for example the level of support currently being provided to those cocooning. Nevertheless the view was expressed that the sense of community policing which they believe has been enlivened during this period might in some way be retained.

Similarly in the area of domestic abuse and those types of crimes that occur behind closed doors there is a concern that the attention, resourcing and proactivity given to this area of harm during the COVID emergency will contract once it is over. The current focus of response to domestic abuse is being experienced nationwide. One service provider reported having a regular weekly engagement with their local Domestic Abuse Inspector, while engagement pre-COVID would have been sporadic. The longevity of the improved response to this issue is something that organisations are hoping can be considered, leveraging the experienced gained during this period. At a practical level the improved service relates to the retention of the quality, regularity and efficacy of the engagement with the Garda Síochána that currently exists.

Consistency of Approach

The majority of organisations have reported a consistency in the policing approach and response throughout the country. While poor practice has been reported on occasion, these instances have generally been described as ‘outliers’ and there does not seem to be any discernible patterns or issues identifiable as attributable to a particular area. These have concerned the expression of attitudes by a small number of individual Gardaí which were described as not indicative in any way of the service being provided. Organisations reported that these instances were brought to the attention of relevant supervisors and Garda management and that easy and established escalation routes existed by which this could be done.

Slight differences have been noted by Joint Policing Committees in the provision of policing within local authority areas where their boundaries take in more than one Garda Division, or vice versa. A small number of JPC Chairpersons noted a tendency to err on the side of leniency with regard to ongoing small scale construction or retail activities outside of those permitted under regulations. One organisation commented that compliance with the restrictions has made members of the community more alert to disparities, perceived or real, in how and whether the restrictions are enforced fairly across the community.

Operation Faoiseamh

The feedback from domestic violence services regarding Operation Faoiseamh continues to be positive. The majority of domestic violence services have reported increased contact from the Garda Síochána since the launch of Operation Faoiseamh, with some reporting specific examples of what they describe as excellent interventions which have resulted in quicker access to safety and protection for victims. There has been evidence of good inter-agency work in this area.

While feedback from domestic violence services has been largely positive, the Authority sought to understand the nature of the examples where poor practice was reported. It was found that examples of poor practice include failure to arrest when there is clear evidence of a serious assault and the breach of an order; a refusal to remove the perpetrator until the victim had given a statement, despite a clear breach of an order; and a case where a victim was sent to court alone to get an order, without linking back in with a support service. It was noted that a response described as “exceptional” and another described as very poor were reported as coming from the same Garda station. This raises a question as to whether good practice is yet systemic or whether it is reliant on the good practice of the individual Garda.

The call-backs have been welcomed and organisations reported that clients have made reference to receiving the calls and found them reassuring. One organisation looked for clarity around perseverance by the Garda Síochána if, for example, the victim can't be reached on the phone on the first attempt and there is a sense that more information on the progress being made across the country as to the numbers being reached and the subsequent categorisation of victims - red/amber/green would be welcomed. Again, it was stated that it will be some time before the impact of the operation can be fully evaluated.

4 Commentary on Some Key Oversight Themes

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

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

4.1 Use of Powers and Use of Force

Reporting on use of emergency powers

The introduction of the powers under the emergency legislation represents a necessary, but unfortunate infringement on human rights. Given the severity of these powers, recording of their use is crucial to inform evaluation of the policing effort during this emergency, for both internal learning and for the public record.

The Authority fully understands that the great majority of Garda engagements with the public will be of the character of engagement, explanation and encouragement - the first of the Garda Síochána's "Four E's", the fourth of which is enforcement. That is as one would expect. One would also expect that some people will change their behaviours during this process. There will be times however, when a Garda will have to direct a person to come into compliance with the Regulations. That is a use of a statutory power. Moreover, even when the person complies, that is still a use of a statutory power. It is that use of a power that the Authority wishes to see recorded. Not the details of the individual - just the use of the direction with which the individual has complied.

Within the 241 interactions, which are recorded and reflected in this latest report, there is no available breakdown of which of the specific five powers have been used in a given interaction. The Garda Síochána had agreed to provide such an analysis and disaggregation, but unfortunately, this has not proved possible.

This raises a concern in relation to an inability of the Garda Síochána to proactively anticipate, and communicate why certain data and information will be needed to transparently inform good stewardship, governance and accountability. It also suggests that there may be a gap in the planning

for operations through a human rights lens from the outset, which would seem particularly important in this case, where emergency powers have been entrusted with the Garda Síochána.

On a positive, the reported use of powers is very limited and is indeed reducing, and given this small data set, it is possible that this matter can be resolved in the coming weeks if there is a will to reflect on the operation of the Regulations on the front-line and the corresponding data collection. This may become either increasingly important or redundant in the coming weeks and months depending on how the phased return to normality progresses.

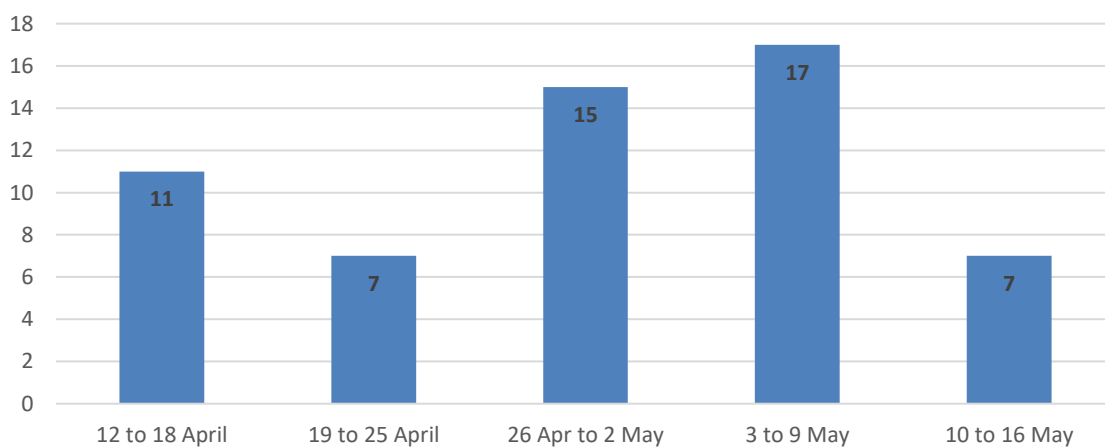
Use of anti-spit hoods

The Garda Síochána has provided instructions for Members on when it is permissible to use an Anti-Spit Hood and identifies the context within which these can be used. It is important to draw attention to some provisions in that document, including 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.

It is clear that it is only to be used where it is necessary and proportionate and in particular where there is clear evidence of ongoing spitting or where a member believes there is a clear and tangible threat of spitting. Members are also required to provide a warning before the application of a hood on a person.

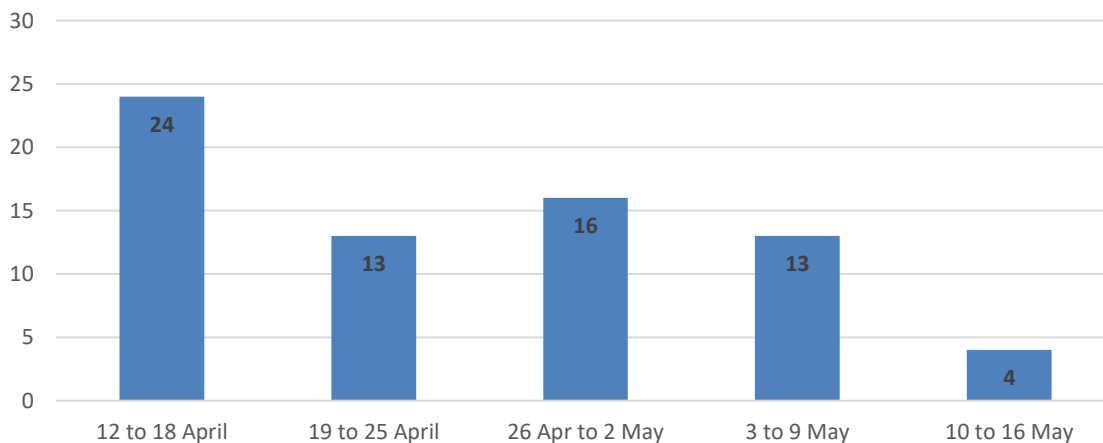
Figure 4: Number of incidents where anti-spit hoods have been used per week



- For the week ending 16 May 2020, anti-spit hoods were used in 7 incidents, bringing the total uses to date to 57.

- Since their introduction, they have most frequently been used in the Dublin Metropolitan Region, which accounted for 23 of the incidents.
- Public Order offences accounted for 24 of the incidents while assault accounted for a further 15.
- While the fall in the use of anti-spit hoods is regarded as a positive sign, it is accepted that the number of incidents for the week may be currently underreported due to lags in reporting and created by data quality assurance processes.
- The Authority’s concerns around the use of anti-spit hoods in general, and particularly on the use of persons under the age of 18, remain, and the Authority is continuing to monitor incidents as they are reported. Since the previous report, the Authority has received incidents in a new reporting template which provides more structured information to facilitate this monitoring.
- Based on this new reporting, some additional information is available for a sample of 15 incidents. Out of these, 12 involved use on a person demonstrating obvious signs of intoxication. A smaller number involved persons demonstrating obvious signs of mental health issues.
- A number of metrics were not included in reports including ethnicity. While it has been noted that some incidents have involved use on foreign nationals, ethnicity cannot be inferred. Use of additional force is also not routinely reported. However, as previously reported, it was noted the incapacitant spray and batons have been used in addition to the hoods in some incidents and this may add to both the risk of the use of the hoods and the discomfort for the suspected offender.

Figure 4: Number of assault incidents where garda members have been coughed or spat on



- For the week ending 16 May 2020, there were four assault incidents where garda members have been coughed or spat on bringing the total assaults to date to 70.
- There has been some media attention on the use of anti-spit hoods with comparisons being made between the number and timing of incidents where anti-spit hoods were used, and incidents where garda members were assaulted by being spat at.
- The numbers reported include for the first time the use of an anti-spit hood on a person under the age of 18 and a detailed report on this was provided to the Authority.
- There are a number of points worth noting in this regard, which may result in these two sets of data not being comparable:

- Firstly, the use of anti-spit hoods, under Garda Síochána policy and procedure, is permitted, where there is clear evidence of spitting during the incident or where a member believes there is a clear and tangible threat of spitting being posed by the subject.
- On examination of the narratives for the deployment of anti-spit hood, it is clear that in the majority of cases spitting occurred in the vicinity of garda members or spitting in garda vehicles, rather than directly on garda members. Such incidents may not be included in the assault by spitting figures.
- By way of contrast, when examining the assault by spitting incidents, it is apparent that anti-spit hoods were not used in all incidents.
- Finally, there may be a time lag between an incident occurring and the incident going through the Garda Síochána data quality assurance processes.

The Authority continues to receive a detailed report for each use of an anti-spit hood and from reviewing same, are satisfied that in each case, one or more of the following has happened:

- A Garda Member has been spat/coughed on by a suspect; and / or
- A suspect has spat/coughed in the direction or vicinity of the member; and / or
- A suspect has spat while in a garda vehicle or cell; and / or
- A suspect has made a threat to spit.

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

Armed Checkpoints

There was further engagement with the Commissioner and his senior team regarding the presence of armed Garda Members at checkpoints and in particular seeking to understand the policy in this regard. We have been informed that there is no change in policy in relation to the presence of armed Members and we understand that there are a number of reasons why there may be armed presence at a checkpoint. It may, for example be routine or coincidental, due to Detective Garda Members, who are routinely armed, being reassigned to checkpoint duty. Alternatively, it could be an intelligence led or risk based decision, based either on specific information or the location of a checkpoint. The Authority fully understands the necessity for Garda members to be appropriately prepared, in the context of either an intelligence led, or risk based approach. The Authority has questions about the impact, in terms of public perception, to allowing the carrying of arms to be overt and apparent to the public when the purpose of the checkpoint is in pursuit of policing a health emergency. This matter will be kept under review by the Authority.

Incidence of potential complaints

The Authority continues to interact with GSOC to identify any changes to the characteristics of potential complaints being notified to it and we understand that the majority of calls continue to relate to use of PPE, discourtesy and social distancing by garda members.

We discussed the matter of internal complaints with the Garda Commissioner and he confirmed, that to his knowledge there was not a significant level of complaints being received about the

manner of policing the Covid Regulations. However, the Authority will discuss this further with him in the coming weeks.

4.2 Community Engagement and Service to Vulnerable Groups

The positive reaction at community and stakeholder level to the breadth and depth of engagement by the Garda Síochána continues. There is an awareness that the resourcing, focus and attention being given to this work are the outcome of a particular context, but there is a strong sense emerging from the Authority's engagement that there is much to be leveraged and learned from this experience that could usefully contribute to a sustainable improvement in the service provided within community policing and in terms of areas of work like domestic abuse. There is concern that post COVID 19 there will be a contraction of the level of service and while there are elements that will obviously be no longer needed, there is a challenge for the organisation to assess and question whether all the positive elements of the organisation's orientation during this time are resource dependent.

Feedback has pointed to examples of excellent service being provided to vulnerable groups with an emphasis on the positive outcomes of increased proactivity, focus and engagement with support organisations. Where exceptions occur there is a sense that these can be raised with the Garda organisation with an expectation that the issues will be addressed. There is a question as to whether disparities in performance might indicate that good practice is not yet systemic in all areas and may rely on the good practice of individuals. The issue of consistency is one which the Authority will continue to pursue. In the main however, outliers aside, stakeholders are reporting their satisfaction with the policing response and the work being undertaken within the community.

4.3 Wellbeing of Garda Members and Staff

The wellbeing and safety of garda members is at the forefront of the Authority's considerations, and it reiterates its condemnation of verbal and physical attacks on members which a small minority of the public continue to partake in. Outside of such behaviour, the frontline nature of garda members' work places them at risk and all suitable protections for these members should be provided in as much as is practical and effective. In the last report the Authority committed to following up on two issues, the use of Personal Protective Equipment (PPE), and testing of members for COVID-19.

Use of Personal Protective Equipment (PPE)

In relation to PPE it had been observed that use among members in public view was minimal, particularly with regard to face coverings. Furthermore, no clear policy on the use of face coverings had been articulated to the public. This has caused a degree of confusion or concern among some members of the public and resulted in complaints and negative commentary of the Garda Síochána. The Authority were aware of policies in relation to the wearing of face coverings and other PPE in specific circumstances, such as dealing with prisoners who are suspected to be suffering from COVID-19. As of 15 May, further guidelines have been issued by the organisation providing for face coverings in more general settings, in line with advices of the National Public Health Emergency Team (NPHE), the Health Service Executive (HSE) and the Garda Chief Medical Officer. Under these

guidelines, garda members shall wear face coverings when unable to practice social distancing or when in close contact with another person for more than 15 minutes. In practical terms, this means members will wear face coverings if on public transport, indoor public areas and confined spaces, while in patrol cars with another person, or where screens or similar protections are not available. However, face coverings are not to be used on beat patrol, checkpoints, single occupancy vehicles or other situations where social distancing can be maintained. It is also advised that sufficient stocks of face coverings are available.

In relation to assuring the safety of garda members and members of the public, it will be important that supervisors ensure that there is appropriate adherence to the directives for social distancing on beat patrol and checkpoints. For example, when observing checkpoints, the Authority noted inconsistency on approaching vehicles from the passenger side of the car and indeed where there is an occupant in the front seat of the car, communication with the driver, while maintaining a 2 metre distance from that occupant becomes challenging. While these circumstances are adequately described in the directives from headquarters, consistent and appropriate adherence has to be encouraged and managed.

Testing of members for COVID-19.

Previously, the Authority had been informed that an appropriate level of priority COVID-19 testing was being sought for the Garda Síochána, and this was reflected in the Authority's first report to the Minister. Since then the situation has changed and the Authority has received assurances from the Commissioner that reliance on the HSE system of testing is now appropriate, given that its capacity and speed has been significantly enhanced. It was further advised to the Authority that no operational problems are being experienced due to delays in testing.

The increased transparency around these issues is welcome and the Authority will continue to monitor initiatives which promote and protect the wellbeing of garda members and staff, as well as of members of the public, during this current public health emergency and beyond.

Training, support, supervision and performance of new recruits

The new recruits continue to be deployed as "assisting members". Since the first report, the Authority has not been made aware of any new issues regarding the support, supervision and performance of these early attested new recruits, but continues to keep this area under review. Two new cadres of recruits will be entering training later this month and during June for a number of weeks. The Authority has been provided with an outline of the plans for the proposed training and assignment, but further detail has been sought from the Commissioner and will be considered at the Authority's meeting on 27 May.

4.4 Policing to Protect and Respect Human Rights

Fairness and consistency

During April and May, there have been a few instances where the Garda Síochána's policing of pickets and protests has been the subject of media attention. Clear evidence of consistent application of the law and of policy throughout the country and in all circumstances provides a

source of assurance to the public and therefore since our last report, there has been further engagement with, and further information provided by, the Garda Síochána on the approach to policing such incidents.

The approach being taken is to avoid escalation, arrests and physical contact, and instead to encourage compliance by individuals with the Covid-19 Regulations. We understand that in a number of cases where the encouragement to individuals to comply with the Regulations has not been followed, the powers under the Act have been used and files are being prepared for consideration by the Director of Public Prosecution ('DPP'). We have been assured by the Garda Commissioner that this use of powers is included in the cumulative number of 241 use of powers reported to 16 May 2020.

The referral of the files to the DPP, which otherwise could be taken directly by the Garda Síochána to court as summary matters, provides an additional layer of engagement and review within the Criminal Justice system on the use of the emergency powers. The Authority is satisfied that the Garda Síochána recognises the importance of both being, and being seen to be, fair and consistent and will continue to keep this matter under review.

Recording Ethnicity

The Authority has raised the issue of the recording of ethnicity on a number of occasions with the Garda Síochána, and most recently with regard to the use of anti-spit hoods. While the Authority notes that the Garda Síochána has some concerns regarding the recording of ethnicity and the risk that it may constitute profiling, the Authority's view remains that the recording of ethnicity is permissible if done in an appropriate manner.

Recording ethnicity allows for both internal and external oversight and provides assurances of the proportionate and fair application of police powers among all cohorts within our society, in a human rights compliant manner. It would also bring the Garda Síochána up to the standards of the recording that can be observed for example, in the public reporting of use of force in England and Wales. We remain in ongoing contact with the Irish Human Rights and Equality Commission (IHREC) and will continue to encourage the Garda Commissioner to engage and consult with IHREC on this matter. Authority Members will discuss the matter again with the Commissioner again at the Authority meeting on 27 May.