

An Garda Síochána

Oifig Saorála Fáisnéise
An Garda Síochána, Teach áth Luimnigh
Lárionad Gnó Udáras Forbartha Tionscail
Baile Sheáin , An Uaimh
Contae na Mí
C15 DR90



Freedom of Information Office
An Garda Síochána, Athlumney House
IDA Business Park
Johnstown, Navan
Co Meath
C15 DR90

Teileafón/Tel: (046) 9036350

Bí linn/Join us  

Láithreán Gréasain/Website:
www.garda.ie

Ríomh-phoist:/Email: foi@garda.ie

Mr. Ken Foxe,

Re: Freedom of Information Request FOI-000271-2017 Request Refused

Dear Mr. Foxe,

I refer to your request, dated and received on 21st June 2017 which you have made under the Freedom of Information Act (FOI) 2014 for records held by An Garda Síochána.

Part 1(n) of Schedule 1 of the FOI Act states that An Garda Síochána is listed as a partially included agency "insofar as it relates to administrative records relating to human resources, or finance or procurement matters". Therefore, only administrative records that relate to human resources, finance or procurement shall be considered.

Your request sought:

A spreadsheet/database detailing all expenditure on firearms in the period 2015 and 2016 to include a breakdown according to weapon, unit costs, and the firm from which they were purchased.

I advise that the FOI Act does not confer a general right of access to information; rather it confers a right of access to records. Therefore, your request for information has been treated as a request for access to records containing the information you seek.

I have now made a final decision to refuse your request on the 18th July 2017. The purpose of this letter is to explain my decision.

1. Findings, particulars and reasons for decision

Details of your request were provided to the Finance Directorate and the Procurement section within An Garda Síochána whom conducted a search for records relating to your request.

An Garda Síochána is an unarmed police force, however a selected number of members of An Garda Síochána are authorised to carry firearms on duty whenever the need arises.

All members of An Garda Síochána who are authorised to carry firearms must first successfully complete an initial firearms course on the particular firearm required and if required to carry different types of firearms then additional training is required for each type of firearm.

Firearms are issued to authorised members of An Garda Síochána for personal protection and are utilised to repel felonious attacks on themselves and / or other persons.

Each authorised firearms holder within An Garda Síochána must undergo and successfully complete two judgemental live-fire firearms training courses and one firearms training simulator course, on an annual basis.

In addition to authorised firearms holders An Garda Síochána has three specialised firearms units, namely Emergency Response Unit (E.R.U.), the Armed Support Unit (A.S.U.), and the Regional Support Unit (R.S.U.), members of which have received substantial additional training in firearms and less-lethal options. These units continue to undergo continuous professional development, which includes tactical training.

I advise that I am refusing to provide you with '*A spreadsheet/database detailing all expenditure on firearms in the period 2015 and 2016*'. I am refusing your request under section 15(1)(d) of the FOI Act on the basis that the information is already in the public domain.

Refusal on administrative grounds to grant FOI requests

15. (1) *A head to whom an FOI request is made may refuse to grant the request where—*

(d) the information is already in the public domain,

In the Garda Síochána Freedom of Information Decision Log An Garda Síochána publishes a list of all responses issued to Freedom of Information Requests (excluding requests for personal information) from the commencement date of 14th of October 2015. I wish to draw your attention to Decision **FOI-000126-2017** wherein details of total expenditure on firearms and ammunition in the years 2015 and 2016 are available on the Garda Website at the following URL:

<http://www.garda.ie/Documents/User/FOI-000126-2017%20Decision.pdf>

I wish to advise that I am refusing to provide you with '*a breakdown according to weapon, unit costs, and the firm from which they were purchased*', as this relates to operational policing matters. The FOI Act specifically states that An Garda Síochána is subject to the Act in relation to "*administrative records relating to human resources, finance or procurement matters*" only.

The term "administrative records" is understood to mean records relating to the processes of running and managing a business or organisation. As a result the FOI Act excludes operational policing business as opposed to the defined administrative processes of An Garda Síochána.

The records you are requesting relate to operational policing matters and do not meet the criteria of administrative records as defined above. Therefore this part of your request must be refused.

In addition, I am also refusing such a breakdown in relation to the type and procurement of firearms, pursuant to sections 32(1)(a)(i) and 32(1)(a)(ii) of the Freedom of Information Act 2014, as I am of the opinion that this information can be reasonably expected, if used inappropriately, to prejudice or impair the Garda Organisation operational capabilities. Section 32 of the FOI Act states:

Law enforcement and public safety

32. (1) A head may refuse to grant an FOI request if access to the record concerned could, in the opinion of the head, reasonably be expected to—

(a) prejudice or impair—

- (i) the prevention, detection or investigation of offences, the apprehension or prosecution of offenders or the effectiveness of lawful methods, systems, plans or procedures employed for the purposes of the matter aforesaid*
- (ii) the enforcement of, compliance with or administration of any law*

Section 32 is a harm based exemption. It applies where access to a record concerned could reasonably be expected to prejudice or impair the matters specified in the subsections. An Garda Síochána is obliged to identify the potential harm that may occur if the records are released and having identified that harm consider the reasonableness of any expectation that the harm will occur.

The detail sought by you in your request, fundamentally, seeks to identify the operational capabilities of An Garda Síochána with regard to firearms throughout the Garda Organisation. An Garda Síochána has unique functions, as set out in the Garda Síochána Act 2005, of which one is “*protecting the Security of the State*”. I am of the opinion that nothing should jeopardise, impair or prejudice the ability of An Garda Síochána to carry out that function to its fullest capability.

The data sought, if released, would specifically identify the make, models, unit costs and suppliers of firearms available to An Garda Síochána, thereby allowing for criminal elements in society to proactively develop and / or acquire countermeasures to negate the possible effect an armed Garda response may have in any given situation. This, in turn, would diminish effectiveness of the lawful methods employed by An Garda Síochána to prevent and detect offences and apprehend offenders as set out in section 32(1)(a)(i) of the Freedom of Information Act 2014.

Similarly, providing a breakdown of these firearms would identify to the general public the response capability of An Garda Síochána. The release of this detailed and specific information relating to the procurement of firearms by An Garda Síochána creates a risk to individual Gardaí who may be issued with a firearm. The criminal element in society will be able to assess the possible armed response capabilities of Gardaí. It is therefore reasonable to expect that it would impair and prejudice the Organisation’s capability to enforce the Law as set out in section 32(1)(a)(ii) of the Freedom of Information Act 2014.

I am conscious of the fact that information released under the Freedom of Information Act is, in essence, a release to the public at large. It is my opinion that the release of this information into the public domain via a Freedom of Information request is an unnecessary risk to the law enforcement procedures employed throughout the State and to individual Gardaí, both armed and unarmed.

It is reasonable to believe that this information, merged with other Garda information, readily available in the public domain, could result in an overall picture being developed with regard to the procurement and allocation of firearms throughout the Organisation. This would be of benefit to criminal organisations and individual criminals alike.

I am of the opinion that the release of such records will unnecessarily expose the Garda capabilities in many areas of our operational duties and therefore it is reasonable to expect that it would impair or prejudice the Organisation's capability to enforce current legislation and investigate crime.

Furthermore the provision of information which could result in a security risk cannot be provided for operational and security reasons. I believe that access to records containing '*a breakdown according to weapon, unit costs, and the firm from which they were purchased*' could possibly identify firearm suppliers to the Organisation thus creating a significant risk for said suppliers, their employees and families. Firearms are a proprietary item and An Garda Síochána do not issue tenders for them. The release of the identity of the suppliers could therefore present an unnecessary and potentially harmful risk to them.

It is for these reasons that this part of your request is also refused under the provisions of section 32(1)(b) of the FOI Act as follows:

Section 32. (1) A head may refuse to grant an FOI request if access to the record concerned could, in the opinion of the head, reasonably be expected to –

(b) endanger the life or safety of any person,

2. Right of Appeal

In the event that you are not happy with this decision you may seek an internal review of the matter by writing to the address below and quoting reference number **FOI-000271-2017**.

Freedom of Information Office, An Garda Síochána, Athlumney House, IDA Business Park, Johnstown, Navan, Co. Meath, C15 DR90.

Please note that a fee applies. This fee has been set at €30 (€10 for a Medical Card holder). Payment should be made by way of bank draft, money order, postal order or personal cheque, and made payable to Accountant, Garda Finance Directorate, Garda Headquarters, Phoenix Park, Dublin 8.

Payment can be made by electronic means, using the following details:

Account Name: Garda Síochána Finance Section Public Bank Account

Account Number: 10026896

Sort Code: 900017

IBAN: IE86B0F190001710026896

BIC: BOFIE2D

You must ensure that your FOI reference number FOI-000271-2017 is included in the payment details.

You should submit your request for an Internal Review within 4 weeks from the date of this notification. The review will involve a complete reconsideration of the matter by a more senior member of An Garda Síochána and the decision will be communicated to you within 3 weeks. The making of a late appeal may be permitted in appropriate circumstances.

Please be advised that An Garda Síochána replies under Freedom of Information may be released in to the public domain via our website at www.garda.ie

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.

Should you have any questions or concerns regarding the above, please contact me by telephone at (046) 9036350.

Yours sincerely,

 SUPERINTENDENT
HELEN DEELY
FREEDOM OF INFORMATION OFFICER

 **JULY 2017**