

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



Láithreán Gréasain/Website:
www.garda.ie

Ríomh-phoist:/Email: foi@garda.ie

Re: Freedom of Information Request FOI-000124-2018 Request Part-Grant

Dear

I refer to your request, dated and received on the 22nd March, 2018 which you have made under the Freedom of Information Act 2014 (FOI Act) 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:

I am seeking the following records:

The number of alleged breaches in each Garda division in Dublin, a brief description of the nature of the breach – such as 'neglect of duty', 'discreditable conduct', 'falsehood/prevarication', 'criminal conduct' etc – whether the Member was found to have been in breach or not in breach, the non-monetary result (e.g advice, reprimand, N/A, etc) and, if applicable, amount in temporary reduction in pay.

Please provide in the table format below:

<i>Breaches of discipline concluded in 2017</i>				
<i>Dublin Division</i>	<i>Breach</i>	<i>Result</i>		
		<i>In Breach/Not in Breach</i>	<i>Non Monetary</i>	<i>Temporary Reduction in pay</i>

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I wish to inform you that I have decided to partially grant your request on the 16th April, 2018.

The purpose of this letter is to explain my decision.

1. Findings, particulars and reasons for decision

The Discipline Section at Internal Affairs is responsible for the oversight of all investigations undertaken by An Garda Síochána under the provisions of the *Garda Síochána (Discipline) Regulations 2007/2011 Statutory Instrument Nos. 124 of 2007* (<http://www.irishstatutebook.ie/eli/2007/si/214/made/en/print>) and 620 of 2011 (<http://www.irishstatutebook.ie/eli/2011/si/620/made/en/print>) which came into effect on 1st June, 2007 and 22nd November, 2011. The purpose of these Regulations is to provide a code of conduct for all members of An Garda Síochána, which must be strictly adhered to. Any suspected breaches may be subject of investigation by Officers appointed pursuant to the Regulations.

Members of An Garda Síochána are subject to the Garda Síochána (Discipline) Regulations, 2007 as amended. As per the Regulations, minor disciplinary matters are locally addressed by way of Regulation 10. Such records are retained locally and are not held centrally. Matters of a more serious nature (Part 3) and less serious nature (Part 2) are progressed centrally through the Discipline Section.

There are six divisions in the Dublin Metropolitan Region (DMR) which are DMR North, DMR North Central, DMR West, DMR South Central, DMR South and DMR East. There are 123 breaches of Regulations in 2017, for all six divisions, where the investigation has been concluded.

With regard to this request I must refuse the information at the level of Division for the Dublin Metropolitan Region as there is a limited number of breaches recorded which, in my opinion, if released to you would facilitate the identification of a particular individual(s). Due to the personal and sensitive nature of the information being requested regarding an individual's employment history, the information cannot be provided under section 37 of the FOI Act. I have therefore provided the breaches of discipline at the level of Garda Region. Personal information is defined at section 2 of the FOI Act and included the following:

Section 2 – Interpretation

- (2) (1) "*personal information*" means information about an identifiable individual that, either—
- (a) *would, in the ordinary course of events, be known only to the individual or members of the family, or friends, of the individual, or*
 - (b) *is held by an FOI body on the understanding that it would be treated by that body as confidential,*

And, without prejudice to the generality of the forgoing, includes,

- (vi) *information relating to any criminal history of, or the commission or alleged commission of any offence by, the individual,*

I believe the individual(s) involved would become easily identifiable beyond their family and friends and it could be considered a breach of the confidentiality upon which the information is being held by the Garda Organisation. The release of information about a particular incident will allow for a person(s) to become more identifiable and possibly named in the public domain and is personal information. I am therefore applying section 37(1) Personal Information which states:

Section 37 – Personal Information

37(1) Subject to this section, a head shall refuse to grant an FOI request if, in the opinion of the head, access to the record concerned would involve the disclosure of personal information (including personal information relating to a deceased individual)

There is a Public Interest Test applicable to section 37 of the FOI Act.

Public Interest Test

As per section 37(5) of the FOI Act, I have considered the public interest issues which arise in this case and have taken account of the following factors in favour of release:

- Ensuring openness and transparency of Organisational functions to the greatest possible extent,
- The public interest in members of the public exercising their rights under the FOI Act,
- That there is more than just a transitory interest by the public in this information,
- The right to privacy is outweighed by the needs of the public.

In considering the public interest factors which favour withholding the records I have taken account of the following:

- Allowing a public body to hold personal information without undue access by members of the public,
- The public interest is not best served by releasing these records,
- That the Organisation can conduct its business in a confidential manner,
- That there is a reasonable and implied expectation by employees that sensitive personal information will remain confidential,
- That there is no overriding public interest that outweighs the individual's right to privacy.

A public interest was carried out when considering the release of the personal information. Having balanced the factors both for and against the release, I decided that the public interest in preserving the personal information and the reasonable expectation that information can be maintained in a confidential manner by An Garda Síochána in the context of its disciplinary proceedings outweighs the public interest which would be served were the records released to you.

The public interest is served by the release of the information in the format provided at Appendix A.

The figures will differ from the number of breaches of discipline recorded as a single member may have been found in breach of more than one discipline regulation in any given year. Therefore, there is not a one to one relationship between the number of members found in breach of discipline and the number of breaches of discipline. As of 31st December 2017 there were 3,482 Garda members in the Dublin Metropolitan Region.

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-000124-2018**.

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: IE86BOFI90001710026896

BIC: BOFIE2D

You must ensure that your FOI reference number FOI-000124-2018 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

19th APRIL, 2018

Appendix A FOI Request FOI-000124-2018

Breaches of Discipline Concluded in 2017 – Dublin Metropolitan Region			
Breach	In Breach/Not in Breach	Result	
		Non Monetary	Temporary Reduction in pay
Discourtesy	In Breach	N/A	€1,500
Discreditable Conduct	In Breach	Advice	N/A
Discreditable Conduct	In Breach	Warning	N/A
Discreditable Conduct	In Breach	N/A	€150
Discreditable Conduct	In Breach	Advice	N/A
Discreditable Conduct	In Breach	N/A	€200
Discreditable Conduct	In Breach	N/A	€200
Discreditable Conduct	In Breach	N/A	€600
Discreditable Conduct	In Breach	N/A	€600
Discreditable Conduct	In Breach	N/A	€600
Discreditable Conduct	In Breach	N/A	€600
Discreditable Conduct	In Breach	N/A	€600
Discreditable Conduct	In Breach	N/A	€600
Discreditable Conduct	In Breach	N/A	€600
Discreditable Conduct	In Breach	N/A	€600
Discreditable Conduct	In Breach	N/A	€600
Discreditable Conduct	In Breach	Advice	N/A
Discreditable Conduct	Not in Breach	N/A	N/A
Disobedience of Orders	In Breach	N/A	€200
Disobedience of Orders	In Breach	N/A	€200
Disobedience of orders	Not in Breach	N/A	N/A
Falsehood/Prevarication	In Breach	N/A	€500
Falsehood/Prevarication	In Breach	N/A	€100
Falsehood/Prevarication	In Breach	N/A	€100
Falsehood/Prevarication	In Breach	N/A	€600
Falsehood/Prevarication	In Breach	N/A	€600
Falsehood/Prevarication	In Breach	N/A	€600
Falsehood/Prevarication	In Breach	N/A	€600
Falsehood/Prevarication	In Breach	N/A	€600
Falsehood/Prevarication	In Breach	N/A	€1,756
Intoxication	In Breach	Advice	N/A
Neglect of Duty	In Breach	N/A	€400
Neglect of Duty	In Breach	Advice	N/A
Neglect of Duty	In breach	N/A	€50.
Neglect of Duty	In Breach	N/A	€50
Neglect of Duty	In Breach	N/A	€ 70
Neglect of Duty	In Breach	N/A	€ 500
Neglect of Duty	In Breach	Advice	N/A
Neglect of duty	In Breach	N/A	€500
Neglect of Duty	In Breach	N/A	€150
Neglect of Duty	In Breach	Advice	N/A
Neglect of Duty	In Breach	Advice	N/A

Neglect of Duty	In Breach	Advice	N/A
Neglect of Duty	In Breach	Advice	N/A
Neglect of Duty	In Breach	Reprimand	N/A
Neglect of Duty	In Breach	N/A	€10
Neglect of Duty	In Breach	Advice	N/A
Neglect of Duty	In breach	Warning	N/A
Neglect of Duty	In Breach	Warning	N/A
Neglect of Duty	In Breach	Reprimand	N/A
Neglect of Duty	In Breach	N/A	€200
Neglect of Duty	In Breach	N/A	€600
Neglect of Duty	In Breach	N/A	€600
Neglect of Duty	In Breach	N/A	€600
Neglect of Duty	In Breach	N/A	€600
Neglect of duty	In Breach	N/A	€600
Neglect of Duty	In Breach	N/A	€600
Neglect of Duty	In Breach	N/A	€150
Neglect of Duty	In Breach	Advice	N/A
Neglect of Duty	In Breach	N/A	€150
Neglect of Duty	In Breach	Advice	N/A
Neglect of Duty	In Breach	Advice	N/A
Neglect of Duty	In Breach	Advice	N/A
Neglect of Duty	In Breach	Advice	N/A
Neglect of Duty	In Breach	Advice	N/A
Neglect of Duty	In Breach	Advice	N/A
Neglect of Duty	In Breach	Advice	N/A
Neglect of Duty	In Breach	Reprimand	N/A
Neglect of Duty	In Breach	Reprimand	N/A
Neglect of Duty	In Breach	Advice	N/A
Neglect of Duty	In Breach	N/A	€100
Neglect of Duty	In Breach	Advice	N/A
Neglect of Duty	In Breach	Warning	N/A
Neglect of Duty	In Breach	Reprimand	N/A
Neglect of Duty	In Breach	Reprimand	N/A
Neglect of Duty	In Breach	Reprimand	N/A
Neglect of Duty	In Breach	N/A	€600
Neglect of Duty	In Breach	N/A	€600
Neglect of Duty	In Breach	N/A	€600
Neglect of Duty	In Breach	N/A	€600
Neglect of Duty	In Breach	N/A	€600
Neglect of Duty	In Breach	N/A	€1,756.
Neglect of Duty	In Breach	N/A	€878.08
Neglect of Duty	In Breach	N/A	€878.08
Neglect of Duty	Not In Breach	N/A	N/A
Neglect of Duty	Not in Breach	N/A	N/A
Neglect of Duty	Not in Breach	N/A	N/A
Neglect of Duty	Not in Breach	N/A	N/A
Neglect of Duty	In Breach	N/A	€2850