

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 ND62



Freedom of Information Office,
An Garda Síochána, Athlumney House,
IDA Business Park,
Johnstown, Navan,
Co Meath.
C15 ND62

Teileafón/Tel: (046) 9036350

Láithreán Gréasain/Website:

www.garda.ie

Bí linn/Join us



Ríomh-phoist/Email: foi@garda.ie

Re: Freedom of Information Request FOI-000215-2022 Request Part Granted

Dear

I refer to your request, dated and received on 26th May, 2022 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:

Under Section 12 of the Freedom of Information Act 2014, 1 request:

- 1. Amount of money spent by An Garda Síochána, between January 1, 2016 to May 26, 2022, on ICT, including hardware, which have facial recognition technology (FRT) and/or biometric identification capabilities;*
- 2. Names of companies which sold this technology to An Garda Síochána;*
- 3. Records and materials related to the solicitation, acquisition, and use of FRT and/or biometric identification technologies and related software and services. The software or services may be provided by any company providing FRT and/or biometric identification services under consideration or contract with the gardai. These records include:*
 - Procurement and tender documents;*
 - Contracts, licensing agreements, non-disclosure agreements, free-trial agreements;*

- *Records related to meetings or follow-up actions with any vendors, companies, or other private entities marketing FRT and/or biometric identification services to An Garda Síochána for any use;*
- *Purchase orders and invoices;*
- *All marketing materials - unsolicited, requested, or otherwise - acquired from vendors of FRT and/or biometric identification technologies;*
- *Any policy directives, guidance documents, memoranda, training materials, or similar records governing the use of FRT and/or biometric identification technologies for policing, immigration, or other purposes. Any memoranda of understanding between An Garda Síochána and other agencies to share FRT/biometric data, access remote FRT systems and/or biometric identification systems or other forms of information sharing with external agencies; and*
- *Records, reports, audits, and other documents sufficient to describe validation, accuracy, reliability, and policy compliance of the FRT and/or biometric identification technology systems*

I wish to inform you that I have decided to part -grant your request on the 23rd June 2022.

The purpose of this letter is to explain my decision.

1. Findings, particulars and reasons for decision

Upon receipt, your request was forwarded to the relevant section of An Garda Síochána who conducted a search for records relating to your request. A number of records have been identified and these are attached herewith.

I have been advised that the only biometric identification system in use in An Garda Síochána is the Automated Fingerprint Identification System (AFIS). Expenditure on AFIS from 2016 to 2022 is as follows:

AFIS Stabilisation Project	€ 3,350,335.87
AFIS & Schengen Information System Integration Project	€ 1,426,053.71
AFIS Support & Maintenance	€ 5,260,635.19

The Freedom of Information Act provides that in certain circumstances, a public body may refuse the release of certain records or part thereof. As such a number of redactions have been applied to the attached records. These redactions are detailed in the Schedule of Records.

Part 1(n) of Schedule 1

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 for release under the Act.

HR records refer to personal records of staff working within An Garda Síochána. They also relate to statistical information in respect of the organisation, e.g. sick leave, discipline, retirements, etc. Financial records relate to the financial expenditure of the organisation and procurement records relate to the contracting of services and the tendering process associated with same.

Records, or part thereof, which relate to matters other than finance, procurement or human resources are outside the scope of the Act insofar as it relates to An Garda Síochána and cannot be released. The provisions of Part 1(n) of Schedule 1 have therefore been applied to a number of the attached records.

Section 36 Commercially Sensitive Information.

The attached records contain information which is of a commercially sensitive nature. In accordance with the provisions of Section 36 of the Act, I am refusing the release of this information. Section 36 states that:

Commercially sensitive information

36. (1) Subject to subsection (2), a head shall refuse to grant an FOI request if the record concerned contains—

- (b) *financial, commercial, scientific or technical or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates, or could prejudice the competitive position of that person in the conduct of his or her profession or business or otherwise in his or her occupation, or***
- (c) *information whose disclosure could prejudice the conduct or outcome of contractual or other negotiations of the person to whom the information relates.***

I am satisfied that the release of certain financial information contained within these records would prejudice the competitive position of the supplier by making the cost charged to An Garda Síochána publically known. This information therefore is commercially sensitive in accordance with the provisions of Section 36 of the Act

I am cognisant of the fact that the release of information under the Act is, in essence, a release to the public at large. The pricing structure of a supplier with regard to services provided to An Garda Síochána is not known to competitors or the public in general. If the records were made available to you it is reasonable to expect that it would prejudice the ability of the supplier to compete in other contracts or negotiations in the future as competitors would be aware of their pricing structure.

I am of the view that the release of the pricing structure could reasonably be expected to result in a material financial loss by the supplier as it could prejudice their competitive position in the conduct of their business. The placing of these pricing structures into the public domain could also reasonably be expected to give a competitive advantage to other companies seeking similar contracts with public bodies.

Furthermore the supplier's current customers may become aware of a potential difference in pricing structures being offered to An Garda Síochána which could prejudice any current or future negotiations with these customers.

Therefore, I am refusing the release of these parts of the attached records under the provisions of section 36(1)(b) & 36(1)(c) as they contain commercially sensitive information.

Public Interest Test

There is a Public Interest Test associated with section 36 of the FOI Act whereby my decision must be made having fully considered the public interest relevant to this request. 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 being released.
- The right to commercial confidentiality is outweighed by the needs of the public regarding the expenditure of public funds by a public body.

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

- Allowing a public body to hold commercial information without undue access by members of the public.
- The best course of action which is in the public interest with regard to these records.
- That An Garda Síochána can conduct its business with external contractors in a confidential manner.
- That there is a reasonable and implied expectation by contractors that financial information pertaining to services provided will be held in a confidential manner.
- That there is no overriding public interest that outweighs the right to privacy by an individual or in this case the financial activities of a service provider.

Having balanced the public interest factors both for and against the release, I decided that the public interest in preserving the information and the reasonable expectation that information can be maintained by An Garda Síochána without prejudicing future financial endeavors by external service providers outweighs the public interest which would be served were the records released to you.

Section 37 – Personal Information

Under the FOI Act, records are released without any restriction as to how they may be used and thus, release under the FOI Act, is in effect, and regarded as being released to the world at large. As a result, I am conscious of my obligations to retain personal information in a confidential and secure manner and prevent personal information from being released in to the public domain unnecessarily. Section 2 of the FOI Act defines personal information as follows:

2.(1) In this Act—

"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,

Section 37(1) provides that a public body shall refuse to grant a request if access to the record concerned would involve the disclosure of personal information. I am satisfied that parts of certain records relate to third parties, and I am satisfied that the records consist of the personal

information of these third parties. Accordingly, I find that Section 37(1) of the Act applies to the records at issue.

Section 37(1) of the FOI Act states as follows:

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)

As section 37 requires a public interest test be carried out. 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:

- 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 that sensitive personal information will remain confidential,
- That there is no overriding public interest that outweighs the individual's right to privacy.
- Allowing a public body to hold personal information without undue access by members of the public,

A public interest test was carried out when considering the release of the records but, having balanced the factors both for and against the release, I have decided that the public interest in preserving personal information would best be served by particular parts of the records provided.

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-0000215-2022**.

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: An Garda Síochána Imprest Account

Account Number: 30000302
Sort Code: 951599
IBAN: IE28DABA95159930000302
BIC: DABAIE2D

You must ensure that your FOI reference number FOI-000215-2022 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 the FOI Office by telephone at (046) 9036350.

Yours sincerely,



PAUL BASSETT
FREEDOM OF INFORMATION OFFICER

23rd JUNE, 2022.