

# 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](http://www.garda.ie)

Bí linn/Join us  

Ríomh-phoist/Email: [foi@garda.ie](mailto:foi@garda.ie)

## Re: Freedom of Information Request FOI-000262-2020 Request Part Grant

*Dear*

I refer to your request, dated 31<sup>st</sup> July, 2020 and received on 4<sup>th</sup> August, 2020 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 the FOI Act 2014, I am seeking the following:*

- *a record of how much AGS spent on the following in 2019 and 2020: guns, protective weapons, ammunition, protective equipment.*
- *a record of the types of guns, protective weapons, ammunition, and protective equipment that were purchased in 2019 and 2020 broken down according to manufacturer, item type, the number of individual items purchased, and the overall price paid for each type of weapon/ammunition.*

*When considering this request, I would draw your attention to the fact that the type of weapons in use by AGS are matters of public record, and are even listed on Wikipedia. In addition, all parts of this request relate to the finances of AGS and do not refer to operational policing matters in any meaningful way.*

*I would prefer to receive this information electronically, ideally in its original electronic format.*

In this regard, I have decided to part grant your request on the 11<sup>th</sup> August 2020.

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The purpose of this letter is to explain that decision.

### **1. Findings, particulars and reasons for decision**

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. The Act excludes the core functions of An Garda Síochána, that is, operational policing matters, as opposed to matters relating to human resources, finance or procurement.

Upon receipt, details of your request were forwarded to the relevant sections of An Garda Síochána who conducted a search for records containing the information you have requested. On foot of these searches I can advise that the amount spent by An Garda Síochána on guns, protective weapons, ammunition, protective equipment in 2019 and to date in 2020 is:

**2019 - €1,593,246**

**2020 - €71,122 (as of 10<sup>th</sup> August 2020)**

### **Section 42 - Restriction of Act**

In considering the remainder of your request, I firstly wish to advise you of Section 42 of the Freedom of Information Act 2014 wherein:

**42.** *This Act does not apply to—*

*(b) a record held or created by the Garda Síochána that relates to any of the following:*

*(i) the Emergency Response Unit;*

*(iii) the Special Detective Unit (SDU);*

*(iv) the witness protection programme sponsored by it;*

*(v) the Security and Intelligence Section;*

*(vi) the management and use of covert intelligence operations;*

Therefore I am refusing the release of records which fall within the provisions of Section 42(2)(b)(i-vi) of the Act.

In respect of your request for "*a record of the types of guns, protective weapons, ammunition, and protective equipment that were purchased in 2019 and 2020 broken down according to manufacturer, item type, the number of individual items purchased*", I am refusing this element of your request pursuant to Sections 32(1)(a)(i) and 32(1)(a)(ii) of the Freedom of Information Act 2014. 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) *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*

The details sought by you in your request, fundamentally, seeks to identify the operational capabilities of An Garda Síochána with regard to firearms and tactical equipment 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 quantity of firearms and tactical equipment 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 figures would identify to the general public the response capability of An Garda Síochána. The release of this detailed and specific information creates a risk to individual Gardaí who may be issued with a firearm or tactical equipment. 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 allocation of firearms throughout the Organisation. This would be of benefit to criminal organisations and individual criminals alike.

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 the make and model of purchases as well as a list of suppliers from whom the guns and firearms were purchased could possibly identify firearm suppliers to the organization thus creating a significant risk for said suppliers, their employees and families. 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 your request is also refused under the provisions of Section 32(1)(b) of the FOI Act as follows:



- 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*

Your request also sought “*the overall price paid for each type of weapon/ammunition.*” I am refusing this aspect of your request and do so pursuant to Section 36(1)(b) & (c) of the Act.

***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 prices paid for individual types of equipment to suppliers could prejudice the competitive position of suppliers and could prejudice future contractual negotiations by making the cost per unit publically known. This information therefore is commercially sensitive in accordance with the provisions of section 36 of the FOI 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 goods provided to An Garda Síochána is not known to competitors or the public in general. If this record was 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.

I am of the view that the release of a suppliers 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.

**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 have decided that the public interest in preserving the information and the reasonable expectation that information can be maintained in a confidential manner by An Garda Síochána in the context of its financial dealings with external organisations outweighs the public interest which would be served were the records released to you.

## **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-000262-2020**.

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

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-000262-2020) 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](http://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,



**ASSISTANT PRINCIPAL**

**PAUL BASSETT**

**FREEDOM OF INFORMATION OFFICER**

11<sup>th</sup> **AUGUST 2020.**