

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 DR 90

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-000344-2016 Request Refused

Dear ,

I refer to the Freedom of Information Act 2014 (FOI Act) and your submission to An Garda Síochána dated 24th September, 2016 and received on 26th September, 2016.

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 is shown below:

- *A database giving a breakdown of the number of gardai attached to each district and specialist unit on January 1 of the following years: 2011, 2012, 2013, 2014, 2015, and 2016.*

I wish to inform you that I have decided to refuse your request on the 20th October, 2016.

The purpose of this letter is to explain that decision.

1. Findings, particulars and reasons for decisions to deny access

Details of Garda resources at Division and District level are available as part of the FOI Publication Scheme on the Garda Website at <http://www.garda.ie/Documents/User/Garda%20Staffing%20Levels%202011-%202015.pdf>. In addition to the allocation of resources being shown by each Garda District figures for resources allocated to Garda Headquarters and the National Support Services are also shown. I am of the opinion that the publication of these figures in this fashion satisfies the public

interest. As a result of the figures being published section 15(1)(d) of the FOI Act is being applied to your request for the years 2011 to 2015 of. Section 15(1)(d) is a refusal on administrative grounds and states the following:

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.

With regard to 2016, An Garda Síochána is publishing resources information in a responsible manner to ensure law enforcement, public safety and State security are not impaired. Figures for the first six months of 2016 will be published at the beginning of 2017.

When considering the publication of operational resource figures inclusive of specialist sections there are two main exemption provisions that apply. They are section 32 and section 33 which are explained below.

Section 32(1)(a)(i) - Law enforcement and public safety.

Your request is being refused under section 32(1)(a)(i), (ii) and (iii) of the Freedom of Information Act 2014 which states:

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 -*

(e) 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 matters aforesaid,*
- (ii) the enforcement of, compliance with or administration of any law,*
- (iii) lawful methods, systems, plans or procedures for ensuring the safety of the public and the safety or security of persons and property,*

The publication of current Garda resources by rank for all Garda sub-districts in the State, in conjunction with the Garda roster system, which are already in the public domain, could provide an opportunity for criminal organisations or likeminded individuals to assess the operational policing capabilities in any location at any given time. I am very conscious of the fact that once information is disclosed under FOI there is no control as to whom the information is shared with, therefore a release under FOI is considered a release to the world in general and not just the individual requesting the information.

The effective use of Garda resources is critical to meeting the responsibilities of An Garda Síochána as set out at section 7 of An Garda Síochána Act, 2005 Act. By providing access to current Garda resources on a national scale, in my opinion, will be contrary to and hinder the legislative goal of providing policing and security services for the State.

The allocation of Garda resources is based on operational needs and the security and safety of the public and their property is considered when allocating resources to an area. These methods result in the appropriate staffing levels being identified in each area to ensure the safety of the public and property therein. The release of the requested information may impact in a harmful manner upon the safety of properties and the persons in a specific sub-district.

The harm involved refers to the realistic and reasonable expectation that it will confirm current operational capabilities at specific locations thus actively providing information that could reasonably be expected to assist criminal organisations and likeminded individuals in their development of counter measures and diversionary tactics. Whilst it may be argued that distraction tactics are already being used by criminal organisations to divert Garda resources it is reasonable to assume that confirmation by An Garda Síochána of the number of Garda resources allocated to a specific sub-district will allow for more accurate diversionary tactics to be deployed.

This feeds into the prejudicial effect upon policing methods, systems, plans or procedures to prevent crimes against the person and property were this information is to be released.

In addition to section 32 of the FOI Act, section 33 is relevant due to the dual role Gardaí perform as per section 7 of the Garda Síochána Act 2005 inclusive of Gardaí in both specialist sections and operational districts.

Section 33 - Security, defence and international relations

Your request is being refused under section 33(3)(b) of the FOI Act which states:

33. (3) *A head shall refuse to grant an FOI request if the record concerned –*

- (b) *contains information that relates to the detection, prevention or suppression of activities calculated tot tending to undermine the public order or the authority of the State (which expression has the same meaning as in section 2 of the Offences against the State Act 1939),*

An Garda Síochána is both the police and security service for Ireland, as well as having an extensive role in relation to immigration matters. The national security structures are incorporated within the overall Garda organisation, under the direction and control of the Garda Commissioner. Gardaí in every station and in all capacities are expected to contribute information and intelligence relating to both policing and national security matters. The statutory functions of An Garda Síochána include providing policing and security services for the State with the objective of preserving peace and public order, protecting life and property, and protecting the security of the State. Section 7(1) of the Garda Síochána Act, 2005 provides as follows, that the function of the Garda Síochána is to provide policing and security services for the State with the objective of, inter alia, -

- (i) *Protecting the security of the State.*

The recently enacted Garda Síochána (Policing Authority and Miscellaneous Provisions) Act 2015 sets out a definition of security services (for the purposes of distinguishing them from policing services in the context of the respective roles of the Policing Authority and

the Minister for Justice and Equality). It defines security services as protecting the security of the State including, but not limited to, the following:

- (i) *preventing, detecting and investigating offences under the Offences against the State Acts 1939 to 1998, the Criminal Law Act 1976, the Criminal Justice (Terrorist Offences) Act 2005 and the Criminal Justice (Money Laundering and Terrorist Financing Act) 2010;*
- (ii) *protecting the State from*
 - (I) *espionage;*
 - (II) *sabotage;*
 - (III) *unlawful acts that subvert or undermine, or are intended to subvert or undermine, parliamentary democracy or the institutions of the State;*
 - (IV) *acts of foreign interference that are, or are intended to be, detrimental to the interests of the State and are clandestine or deceptive or involve a threat to any person;**whether directed from, or committed or intended to be committed within, the State or not;*
- (iii) *identifying foreign capabilities, intentions or activities within or relating to the State that impact on the international well-being or economic well-being of the State; and*
- (iv) *cooperating with authorities in other states and international organisations aimed at preserving international peace, public order and security.*

In summary and in the context of safeguarding the internal security of the State, An Garda Síochána is charged with;

- preventing, detecting and investigating terrorist and terrorist-related offences;
- protecting the State from espionage, sabotage and unlawful acts aimed to subvert or undermine parliamentary democracy or the State's institutions;
- maintaining a daily operational response capability across the state to ensure a graduated response commensurate with the level of threat.

Information gained through investigations conducted by An Garda Síochána indicates that criminals and terrorists make preparations, to establish the likely police response, (how long, how many) prior to undertaking criminal activity in a particular area.

The same concern applies to “*Fixated Persons / loners*” which is a term used to describe persons who have an obsessive pre-occupation with a person, a place or institution, a cause, or combination of these. Such persons are often fixated on the security arrangements for persons under protection and the potential responses from local Gardaí. This was highlighted by the Irish Times (July 13th 2015) as Leinster House was under potential threat from “*fixated loners*”.

In order to maintain a proper response capability to a terrorist or criminal incident and maintain protective security within the State to persons, institutions, installations and any other persons (e.g. Government, Diplomatic Corps, Judiciary or places considered to be a security risk), it is essential that current Garda figures are not disseminated.

An Garda Síochána is committed to complying, to the greatest extent possible, with the spirit and legislative provisions of the Freedom of Information Act. However information cannot be given which would afford an advantage to criminally minded persons who are intent on seeking out vulnerabilities in the system of crime prevention and detention employed nationwide by An Garda Síochána. The release of personnel numbers / deployment, down to District level, demonstrates the bona fides of the Garda Organisation in seeking to release the information in a form and manner that mitigates, to the greatest extent possible, the risk of compromising our efforts at crime prevention, crime detection and national security considerations.

In support of the two exemption provisions provided above I draw your attention to the well publicised threats made against Garda members in Carbury Garda Station, Kildare Division by organised criminals. An article in the Irish Independent of 1st May 2015 details the threats made against Gardaí in a rural Garda Station and the attempts to destroy Garda property (including private property owned by individual Gardaí). As a result extra security precautions had to be taken to ensure the physical safety of Garda members attached to Carbury station. This reinforces my opinion that information cannot be released which would afford an advantage to criminally minded persons intent on seeking out vulnerabilities in the system of crime prevention and detention employed nationwide by An Garda Síochána.

The public interest in State security must be balanced against the responsibilities of An Garda Síochána to protect the security of the State. I am of the opinion that the publication of the figures at District level is more than sufficient to satisfy the public interest in this matter.

Section 42 - Restriction of Act

In addition to the above exemptions the allocations to “*specialist unit*” for the requested years is being refused under section 42(2)(b)(i-vi) and (c)(i) of the FOI Act which states:

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;*
- (ii) the Secret Service Fund maintained by it;*
- (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;*

(c) a record held by—

- (i) the Criminal Assets Bureau,*

The total Garda resources are now in the public domain and to provide a breakdown of all resources allocated to Garda Districts and Specialist Units that are not listed under section 42 would then result in the disclosure of resources assigned to the exempted units under section 42.

I therefore believe that the figures as published satisfy the public interest in this matter.

2. Rights 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-000344-2016**.

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: BOFIIE2D

You must ensure that your FOI reference number (FOI-000344-2016) 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 will be removed to protect confidentiality where applicable.

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.

21st **OCTOBER, 2016**