

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

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

## Re: Freedom of Information Request FOI-000040-2018 Request Part Granted

*Dear*

I refer to your request, dated 21<sup>st</sup> January, 2018 and received on 22<sup>nd</sup> January, 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:

- (1). The brand of pepper spray that is used by An Garda Síochána.*
- (2). The current supplier that supplies An Garda Síochána with pepper spray.*
- (3). The yearly quantity of pepper spray that is ordered by An Garda Síochána.*
- (4). The procurement process that is used by An Garda Síochána for procuring pepper spray.*
- (5). The amount of pepper spray that is held in stock by An Garda Síochána.*

I wish to inform you that I have decided to part grant your request on the 16<sup>th</sup> February, 2018.

The purpose of this letter is to explain that decision.

1

## 1. Findings, particulars and reasons for decision

The specialist equipment assigned to each member of An Garda Síochána serves an operational requirement within the environment in which they operate. It is the aim of An Garda Síochána to uphold and protect the human and constitutional rights of everyone by providing a high quality, effective policing service in partnership with the community and in co-operation with other agencies. Incapacitant spray provide an additional tactical option that may be available to Gardaí in the resolution of an incident. Its use should be seen in the context of the Conflict Management Model as a whole. The nature of policing is so diverse that it will never be possible to document guidance to cover every eventuality. What is important is that any action taken is lawful. Any use of incapacitant spray must be necessary and must be “*reasonable in the circumstances*” as the member of An Garda Síochána believes them to be. Individual Gardaí must be prepared to account for their decisions and justify their actions within the scope of legislation and regulations governing the use of non-lethal force.

Details of your request were forward to the Procurement section of An Garda Síochána who have provided records pertaining to your request.

Upon review of these records, I have decided to grant part 1, 2 and 4 of your request where you sought:

- (1). *The brand of pepper spray that is used by An Garda Síochána.*
- (2). *The current supplier that supplies An Garda Síochána with pepper spray.*
- (4). *The procurement process that is used by An Garda Síochána for procuring pepper spray.*

I can advise you that the original requirement of incapacitant spray was advertised on the e-Tenders website on 29<sup>th</sup> December 2008 and the open procedure was used. This contract was awarded to Outdoor Trek, Swords, Co. Dublin who supply An Garda Síochána with SABRE pepper spray.

Further information on this specific procurement process is available on the Office of Government Procurement eTenders website at the following link:

[https://irl.eu-supply.com/app/rfq/publicpurchase/frameset.asp?PID=20730&B=ETENDERS\\_SIMPLE&PS=1&PP=ctm/Supplier/PublicTenders](https://irl.eu-supply.com/app/rfq/publicpurchase/frameset.asp?PID=20730&B=ETENDERS_SIMPLE&PS=1&PP=ctm/Supplier/PublicTenders)

Parts 3 and 5 of your request relate to operational policing matters carried out by An Garda Síochána, as opposed to administrative matters relating to human resources, or finance or procurement:

- (3). *The yearly quantity of pepper spray that is ordered by An Garda Síochána.*
- (5). *The amount of pepper spray that is held in stock by An Garda Síochána.*

Section 6(2)(a) of the FOI Act provides that an entity specified in Schedule 1, Part 1 of the Act shall, subject to the provisions of that Part, be a public body for the purposes of the FOI Act. Schedule 1, Part 1 contains details of bodies that are partially included for the purposes

of the FOI Act and also details of the certain specified records that are excluded. If the records sought come within the description of the exclusions of Part 1, then the FOI Act does not apply and no right of access exists. 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. Part 1(n) of Schedule 1 of the FOI Act provides that An Garda Síochána is not a public body for the purposes of the FOI Act other than in relation to administrative records relating to human resources, or finance or procurement matters.

I have decided to refuse Part 3 and Part 5 of your request which is to provide the yearly quantity of pepper spray that is ordered by An Garda Síochána and the amount of pepper spray held in stock by An Garda Síochána as it falls outside the scope of the FOI Act insofar as the records do not meet the criteria of administrative records as defined in the Act.

The records that you sought relate to operational policing matters carried out by An Garda Síochána, as opposed to administrative matters relating to human resources, or finance or procurement.

## **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-000040-2018**.

***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-000040-2018) 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](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,

 **SUPERINTENDENT**  
**SHARON KENNEDY**  
**FREEDOM OF INFORMATION OFFICER**

16 FEBRUARY 2018