

# 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-000248-2018 Request Refused

*Dear*

I refer to your request, dated and received 20<sup>th</sup> June, 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 would like to receive the following information for the previous five years, with an annual breakdown. I also request a breakdown by specific offences (if available). In each case, please provide the maximum severity (e.g. speed, BAC), and/or details of the breakdown of any offence severity banding (e.g. speeding at 30kph over the limit) as applicable.*

*1) How many of your serving gardai officers were found to have committed what would ordinarily be considered to be traffic offences while on duty (e.g. caught on camera speeding or shot by traffic gardai exceeding a speed limit)? Please exclude any cases where there was a bona fide blue light emergency, or where specific permission was otherwise given.*

- A) How many of the above were dealt with by means of internal disciplinary processes, rather than being charged or given a fixed penalty notice (FPN)? Please detail the internal sanctions used, e.g. restricted duties, dismissal, verbal warning etc.*
- B) In how many cases above was no action taken?*
- C) In how many cases above was a prosecution mounted, or FPN issued?*

*2) How many officers, both in work and outside of work (given separately), have been charged with motoring offences from your force?*

I wish to inform you that I have decided to refuse your request on the 18<sup>th</sup> July 2018.

The purpose of this letter is to explain that decision.

The sections of the Act which can apply to deny access to records are known as its exemption provisions.

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

Section 11 of the FOI Act provides for a right of access to records held by FOI bodies. Requests for information are therefore not valid requests under the Act, as opposed to requests for records. FOI bodies are not required to create records under the Act if none exist and it does not oblige FOI bodies to answer general queries nor provide a mechanism for answering questions, except to the extent that a question can reasonably be inferred to be a request for records which contain the answer to the question asked or the information sought.

Requests for information should be directed to the Garda Press Office which is based in the Office of Corporate Communications in Garda Headquarters and can be contacted at 01 6662032/34/35 and/or [pressoffice@garda.ie](mailto:pressoffice@garda.ie)

However, in order to assist you I have processed your request as a request for records.

I am refusing Part 1, 1(C) and Part 2 of your request wherein you seek:

*I would like to receive the following information for the previous five years, with an annual breakdown. I also request a breakdown by specific offences (if available). In each case, please provide the maximum severity (e.g. speed, BAC), and/or details of the breakdown of any offence severity banding (e.g. speeding at 30kph over the limit) as applicable.*

*1) How many of your serving gardai officers were found to have committed what would ordinarily be considered to be traffic offences while on duty (e.g. caught on camera speeding or shot by traffic gardai exceeding a speed limit)? Please exclude any cases where there was a bona fide blue light emergency, or where specific permission was otherwise given.*

*C) In how many cases above was a prosecution mounted, or FPN issued?*

*2) How many officers, both in work and outside of work (given separately), have been charged with motoring offences from your force?*



## **Schedule 1 Part 1 - Partially Included Agencies**

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.

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. The term “administrative records” is understood to mean records relating to the processes of running and managing a business or organisation.

I am refusing Part 1, 1(C) and Part 2 of your request as these parts of your request fall outside the scope of the FOI Act insofar as the records do not meet the criteria of administrative records as defined in the Act.

A search was conducted in the relevant areas of An Garda Síochána to identify the records sought in relation to Part 1(A) and 1(B) of your request wherein you seek:

- A) How many of the above were dealt with by means of internal disciplinary processes, rather than being charged or given a fixed penalty notice (FPN)? Please detail the internal sanctions used, e.g. restricted duties, dismissal, verbal warning etc.*
- B) In how many cases above was no action taken?*

As a result of this search, it has been established that these specific records do not exist.

## **Refusal on administrative grounds to grant FOI requests**

I wish to advise you that there is no provision within the Garda Síochána (Discipline) Regulations 2007, as amended, for a choice to be offered to a member as to how they would prefer to be dealt with under such circumstances. Therefore, the records you have requested do not exist.

In accordance with the requirements of Section 15(1)(a) of the FOI Act, I am satisfied that all reasonable steps have been taken to identify and locate the requested records.

I am therefore refusing Part 1(A) and 1(B) of your request on administrative grounds under Section 15(1)(a) of the FOI Act which states:

- 15. (1) A head to whom an FOI request is made may refuse to grant the request where -*
  - (a) the record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken,*

## **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-000248-2018**.

***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-000248-2018) 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**

18 JULY, 2018