Re: Freedom of Information Request FOI-000081-2018
Request Part-Grant

Dear

I refer to your request, dated and received on 13th February, 2018 which you have made under the Freedom of Information Act 2014 (FOI Act) for records held by An Garda Síochána. I understand you spoke to a member of my staff and clarified your request on 16th February, 2018 and agreed to omit point no. 2 of your request.

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 number of Gardai currently suspended from duty; their rank and reasons for their suspension.
2. Correspondence between the Garda Representative Association (GRA) and the Garda relating to the general issue of disciplinary proceedings and delays in finalising matters where members are suspended for long periods of time.
3. The number of Gardai suspended in excess of 10 years
   The number of Gardai suspended between eight and 10 years.
   The number of Gardai suspended between eight and six years
   The number of Gardai suspended between five and six years
   The number of Gardai suspended between four and five years.
   The number of Gardai suspended between four and three years
   The number of Gardai suspended between three and two years.
The number of Gardaí suspended between two and one years
The number of Gardaí suspended between one and six months

4. Where a Garda has been suspended from duty in excess of three years, the reasons why members are suspended for that duration and more.

5. The number of Gardaí dismissed from duty in 2017
The number of Gardaí dismissed from duty in 2016
The number of Gardaí dismissed from duty in 2015
The number of Gardaí dismissed from duty in 2014
The number of Gardaí dismissed from duty in 2013
The number of Gardaí dismissed from duty in 2012
The number of Gardaí dismissed from duty in 2011

Your clarified request sought:

1. The number of Gardaí currently suspended from duty; their rank and reasons for their suspension.
2. The number of Gardaí suspended in excess of 10 years
   The number of Gardaí suspended between eight and 10 years.
   The number of Gardaí suspended between eight and six years
   The number of Gardaí suspended between five and six years
   The number of Gardaí suspended between four and five years.
   The number of Gardaí suspended between four and three years
   The number of Gardaí suspended between three and two years.
   The number of Gardaí suspended between two and one years
   The number of Gardaí suspended between one and six months

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   The number of Gardaí dismissed from duty in 2014
   The number of Gardaí dismissed from duty in 2013
   The number of Gardaí dismissed from duty in 2012
   The number of Gardaí dismissed from duty in 2011

I wish to inform you that I have decided to part-grant your request on the 13th March, 2018. For ease of reference I have numbered your request 1-4 inclusive.

The purpose of this letter is to explain my decision.

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

The Internal Affairs Section of An Garda Síochána were contacted to identify the information requested in your FOI Request. It should be noted that the information requested was not readily available in the format as sought by you, however following a manual examination of files, data was identified which has been utilised to assist in response to this request.

I am partially granting point no. 1 and point no. 2 of your request seeking the current number of members under suspension by rank and the lengths of the suspension periods. Due to the very small number of members currently suspended I am withholding the rank and the specific...
duration of the suspension period of the members concerned. I am conscious of my obligations
to retain personal information in a confidential and secure manner and prevent personal
information from being released into the public domain unnecessarily. Personal information is
defined at section 2 of the FOI Act and includes the following.

Section 2 – Interpretation

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,

(b) is held by an FOI body on the understanding that it would be treated by that body as
confidential,

and, without prejudice to the generality of the foregoing, includes—

(iii) information relating to the employment or employment history of the individual,

(v) information relating to the individual in a record falling within section 11(6)(a),

(vi) information relating to any criminal history of, or the commission or alleged
commission of any offence by, the individual,

(x) the name of the individual where it appears with other personal information
relating to the individual or where the disclosure of the name would, or would be likely
to, establish that any personal information held by the FOI body concerned relates to the
individual,

As referenced at section 2 above, section 11(6)(a) refers to access to records but does not include
certain personal records. Section 11(4) sets out the right of access to records and the types of
records that can be accessed. However, in section 11 there are number records that are
considered personal and are not automatically subject to release by an FOI body. Section
11(6)(a) sets out the records that are not included for release at section 11(4).

(6) Subsection (4) shall not be construed as applying, in relation to an individual who is a
member of the staff of an FOI body, the right of access to a record held by an FOI body
that—

(a) is a personnel record, that is to say, a record relating wholly or mainly to one or
more of the following, that is to say, the competence or ability of the individual in his
or her capacity as a member of the staff of an FOI body or his or her employment or
employment history or an evaluation of the performance of his or her functions
generally or a particular such function as such member,

I am refusing to provide details of Rank and specific suspension periods as I believe that the
individuals involved will become easily identifiable beyond their family and friends and it
would be considered a breach of the confidentiality upon which the information is being held
by the Garda Organisation. The release of information about such a small number of incidents,
such as rank and suspension period, which is specific to each individual, will allow for a person
to become more identifiable and possibly named in the public domain. I am therefore applying Section 37(1) Personal Information which states:

Section 37 - Personal Information

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).

There is a Public Interest Test applicable to section 37 of the FOI Act.

Public Interest Test

As per section 37 of the FOI Act 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:

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

A public interest test was carried out when considering the release of the personal information but having balanced the factors both for and against the release, I decided that the public interest in preserving the personal information and the reasonable expectation that information can be maintained in a confidential manner by An Garda Síochána in the context of its disciplinary proceedings outweighs the public interest which would be served were the records released to you.

In addition to section 37(1) I am also applying section 35(1)(b) to the release of the information you seek. The disclosure of personal information of this nature would, in my opinion, be a breach of an implied equitable agreement between An Garda Síochána and the individual(s) involved. A period of suspension for a member of An Garda Síochána contains the necessary quality of confidentiality whereby an individual could reasonably expect an equitable duty of confidence to exist between the parties concerned. Any records of this nature are part of an internal disciplinary investigation as per the Garda Síochána (Discipline) Regulations 2007 (as amended). Furthermore, where disciplinary matters proceed to a Board of Inquiry, regulation 29(8) states “An Inquiry shall be held in private”. I am also of the view that it would be
unconscionable for this Organisation, engaged in processes involved in alleged breaches of discipline, not to treat all information relating to the process, inclusive of the decision to suspend a person, as confidential. Therefore, I am now applying section 35(1)(b) of the FOI Act to only partially grant your request as set out in point no. 1 and point no. 2.

**Section 35 – Information obtained in confidence**

35. *(1)* Subject to this section, a head shall refuse to grant an FOI request if—

*(b)* disclosure of the information concerned would constitute a breach of a duty of confidence provided for by a provision of an agreement or enactment (other than a provision specified in column (3) in Part 1 or 2 of Schedule 3 of an enactment specified in that Schedule) or otherwise by law.

I have partially granted points no. 1 and no. 2 of your request as shown in the table below

**Table A: - Number of Members Suspended – Duration**

<table>
<thead>
<tr>
<th>Number of Gardaí currently on suspension</th>
<th>35</th>
</tr>
</thead>
<tbody>
<tr>
<td>The numbers who are currently suspended 6 - 10 years and over</td>
<td>2</td>
</tr>
<tr>
<td>The numbers who are currently suspended 3 - 6 years</td>
<td>8</td>
</tr>
<tr>
<td>The numbers who are currently suspended 0 - 3 years</td>
<td>25</td>
</tr>
</tbody>
</table>

Please note that the above figures include both the number of members whose suspension commenced in the calendar year indicated above and / or remained on suspension from the previous calendar year.

It should be further noted that the figures outlined above are those on long term suspensions, the figures do not include those members who have been suspended for short term periods, e.g. if a member is suspended for a day or part of while they may be the subject of court proceedings. It should be further noted that the numbers of members on suspension in An Garda Síochána vary, sometimes on a day to day basis as investigations are progressed or finalised.

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

I am granting point no. 3 of your request wherein you requested the following:

*Where a Garda has been suspended from duty in excess of three years, the reasons why members are suspended for that duration and more.*

Following an examination of the records held at Internal Affairs section I can inform you that, where a member has been suspended for a duration in excess of three years the reasons included the fact that some of the members are still subject of criminal proceedings before the courts whether by way of awaiting trial or awaiting an appeal before the courts.

In addition, a number of members are also currently pursuing Judicial Review proceedings before the High Court in relation to discipline matters and remain suspended pending the outcome of these proceedings and subsequent conclusion of discipline proceedings.
I am partially granting point no. 4 of your request wherein you requested the following:

4. The number of Gardai dismissed from duty in 2017
   The number of Gardai dismissed from duty in 2016
   The number of Gardai dismissed from duty in 2015
   The number of Gardai dismissed from duty in 2014
   The number of Gardai dismissed from duty in 2013
   The number of Gardai dismissed from duty in 2012
   The number of Gardai dismissed from duty in 2011

With regard to part 4 of your request, the information sought in respect of dismissals from An Garda Síochána is in part available under the ‘Internal Affairs’ and ‘Managing our Resources’ headings of the Annual Reports which are located in the Publications tab on our website, www.garda.ie. Reports for years 2011 to 2016 are available on the website. As information has been provided into the public domain in an appropriate format by the Garda Organisation that meets the interest of the public and preserves the rights of the individual, I am part granting one aspect of your request and refusing the remainder of your request under Section 15(1)(d) which states:

Section 15 – Refusal on administrative grounds to grant FOI requests

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

However, I am in a position to provide you with the dismissals for 2017 which is herewith outlined below:

| Number of Gardai Dismissed - 2017 | 1 |

Please note that figures do not reflect resignation / retirements prior to conclusion of discipline proceedings or criminal proceedings. Nor do these figures relate to members of the Garda Reserve and Probationer Gardai, who are dealt with under the Garda Síochána (Admission and Appointments) (Amendment) Regulations 2001 / 2006, or to student Gardai.

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-000081-2018.


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:
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:** BOFIIE2D

You must ensure that your FOI reference number FOI-000081-2018 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,

[Signature]
**SUPERINTENDENT**  
**SHARON KENNEDY**  
**FREEDOM OF INFORMATION OFFICER**

14 MARCH, 2018