Re: Freedom of Information Request FOI-000105-2018
Request Refused

Dear

I refer to your request, dated 22nd February, 2018 parts 1,2,3,5,6 and 7 which were transferred and received in this office from the Garda Síochána Ombudsman Commission on 7th March, 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. I am requesting the copy of the rules and training governing use of Pepper/Incapacitant /PAVA Spray use by Garda Síochanna for years from first allowed till 2018 (in case any alterations have been made)
2. I am requesting what reports/forms are to be filled out and please attach blank copy of such report or forms.
3. I am requesting how many Garda have used Pepper/Incapacitant /PAVA Spray since first allowed in Ireland and a breakdown for each year till currently 2018.
4. I am requesting number of Garda who have not submitted any report or form to GSOC for each year till 2018 what sanctions have been taken against them.
6. When Garda uses Pepper/incapacitant /PAVA Spray what is done with each bottle/spray/container, and what is done with bottle/spray/container if a criminal prosecution is pending and including hearing of case.

7. How is each Pepper/incapacitant /PAVA Spray, bottle/container identifiable and is there serial numbers or other used so bottle/spray/container can be individually identified as to which Garda has access to Pepper/incapacitant /PAVA Spray.

I wish to inform you that I have decided to refuse your request on 8th March, 2018.

The purpose of this letter is to explain my decision.

1. Findings, particulars and reasons for decision

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 therefore refusing your request as it is 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.

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-000105-2018.


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:

Account Name: Garda Síochána Finance Section Public Bank Account
Account Number: 10026896
Sort Code: 900017
IBAN: IE86BOFI90001710026896
BIC: BOFIEIE2D
You must ensure that your FOI reference number FOI-000105-2018 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

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

19 MARCH, 2018.