

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 2 August 2005

Name of Public Authority: **The Chief Officer of Police of Hampshire Constabulary**

Address of Public Authority: **Hampshire Constabulary
Police Headquarters
West Hill
Romsey Road
Winchester
Hampshire SO22 5BD**

Nature of Complaint

The complainant requested the following information about two fixed speed cameras located on Mountbatten Way (A35) in Southampton from the Chief Officer of Police of Hampshire Constabulary ("Hampshire Constabulary") under section 1 of the Freedom of Information Act 2000 (the "Act"):

1. The number of offences detected by each camera at this site for the period covered by the 2003/4 Annual Review
2. The revenue generated by each camera at this site for the period covered by the 2003/4 Annual Review

Hampshire Constabulary refused to provide the information and the complainant alleges that this is not in accordance with the requirements of Part 1 of the Act.

The Commissioner's Decision

Under section 50(1) of the Act, except where a complainant has failed to exhaust a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act and to issue a Decision Notice to both the complainant and the public authority.

The Commissioner's decision is as follows:

Hampshire Constabulary refused to provide the information citing Section 31 of the Act (Prejudice to Law Enforcement). In correspondence with the Commissioner, Hampshire Constabulary also cited Section 38 of the Act (Likely to Endanger the Health and Safety of any Individual).

The Commissioner agrees that both exemptions apply in respect of the requested information and, having considered the information in question, he

also agrees with Hampshire Constabulary's view that the public interest in maintaining both exemptions outweighs the public interest in disclosing the information. Further details are given in the attached Statement of Reasons.

Action Required

In view of these matters the Commissioner hereby gives notice that in exercise of his powers under section 50 of the Act he does not require any remedial steps to be taken by Hampshire Constabulary

Right of Appeal

Either party has the right to appeal against this Decision Notice to the Information Tribunal (the "Tribunal"). Information about the appeals process can be obtained from:

Information Tribunal	Tel: 0845 6000 877
Arnhem House Support Centre	Fax: 0116 249 4253
PO Box 6987	Email: informationtribunal@dca.gsi.gov.uk
Leicester	
LE1 6ZX	

Any Notice of Appeal should be served on the Tribunal within 28 days of the date on which this Decision Notice is served.

Dated the 2nd day of August 2005

Signed:

Richard Thomas
Information Commissioner

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

STATEMENT OF REASONS

Hampshire Constabulary asserted that the release of the requested information would prejudice law enforcement (Section 31) and in correspondence with the Commissioner also asserted that the release of the requested information would be likely to endanger the health and safety of any individual (Section 38).

Section 31 states that:

“Information which is not exempt information by virtue of Section 30 [information held for the purposes of investigations and proceedings conducted by public authorities] is exempt information if its disclosure under this Act would or would be likely to prejudice

- a) the prevention or detection of crime,
- b) the apprehension or prosecution of offenders, ...”

Section 38 states that:

“Information is exempt information if its disclosure under this Act would, or would be likely to –

- a) endanger the physical or mental health of any individual, or
- b) endanger the safety of any individual. ...”

Both exemptions are qualified exemptions and are subject to a public interest test. Hampshire Constabulary asserted that the public interest in maintaining both exemptions outweighed the public interest in releasing the requested information about individual cameras. This information is often referred to as “site specific” information.

The Commissioner acknowledges that the purpose and efficacy of speed cameras is a subject of considerable debate with strongly held views on either side. It is not the role of the Commissioner to adjudicate on this debate. Instead he has to consider whether the potential prejudice to law enforcement and the potential risk to the health and safety of any individual that may result from the release of the requested information, is such that the public interest in maintaining the exemptions outweighs the public interest in disclosing the requested information.

Is the release of this information likely to prejudice law enforcement?

It is widely known that the majority of speed cameras in any given policing area are not activated for enforcement at all times. It is the desire of the police that a driver should assume that the speed camera they are approaching is active. The Commissioner is persuaded that drivers are more inclined to stick rigidly to the speed limit in an enforcement zone if they believe that a camera is active or likely to be active.

By comparing the figures for the two cameras in this case, a driver may deduce that one camera is less likely to be active than the other and adjust their driving speed upwards accordingly. Driving at speeds in excess of the stated speed limit is a traffic offence.

As such, the Commissioner is satisfied that the exemption under s31 applies because he is persuaded that the release of the requested information may lead some drivers to risk exceeding the speed limit in contravention of the law at one or other or both of those particular sites.

Is the release of this information likely to prejudice the health and safety of any individual?

If, after comparing the figures for the two cameras on Mountbatten Way, a driver chooses to drive in excess of the speed limit, is there, as a consequence, likely prejudice to the health and safety of any individual? The Commissioner acknowledges arguments that have been put forward which suggest that factors other than speeding are major contributing factors to road traffic accidents, e.g. driving under the influence of drugs or alcohol. However, he is persuaded that speeding is also a factor which is likely to contribute to road accidents and is not persuaded that the risk is insignificant. He notes that there are strict guidelines for site selection for permanent speed cameras. For example, a camera can only be installed at a known accident blackspot. Therefore, he is satisfied that the s38 exemption applies because there is an increased likelihood of a road traffic accident if drivers exceed the stated limit, particularly at a known accident blackspot where a camera has been sited.

The Public Interest Test

Having agreed that both exemptions apply, the Commissioner then considered whether the public interest in maintaining one or both of those exemptions, outweighed the public interest in releasing the requested information.

The Commissioner believes that the increased likelihood of risk to the health and safety of any individual is, of itself, a powerful public interest argument against disclosure, as is the increased likelihood that the law will be broken if the information were to be released. He recognises, however, that transparency about site selection would inform the debate referred to earlier in this Statement of Reasons. He acknowledges the importance of this debate in building public confidence in enforcement of road traffic laws.

The Commissioner notes that the Hampshire Road Safety Partnership website already provides general explanations about the criteria for fixed camera site selection <http://www.safetycamera.org.uk/road.shtml>. Hampshire Constabulary is a member of the Hampshire Road Safety Partnership. From his own inquiries, the Commissioner also notes that the recent annual report of the Road Safety Partnership in neighbouring Sussex went further than this and published site specific information in the form of case studies in order to illustrate what they consider to be the effectiveness of their speed camera strategy. Given that Sussex Road Safety Partnership has chosen to release spontaneously some site specific information as a case study, the Commissioner had to consider whether Hampshire Constabulary should release site specific information upon request. In other words, should

Hampshire Constabulary release such information upon request rather than at their own discretion for illustrative purposes?

While considering this point, the Commissioner also noted that Nottinghamshire Police Constabulary had, in February 2005, spontaneously released site specific information upon request. However, in the Commissioner's opinion, the release of site specific information by one Constabulary does not create a compulsory precedent for other Constabularies to follow. In addition, Nottinghamshire Police Constabulary appears to have reconsidered their approach to the disclosure of site specific information upon request according to the Freedom of Information section of their Safety Camera Partnership website <http://www.streettactics.co.uk/FOI/FOIhomepage.html>.

In response to the Commissioner's inquiries, Hampshire Constabulary have asserted that it is important to strike a balance between encouraging drivers to moderate their driving behaviour via a perceived risk of enforcement and forcibly moderating their behaviour via actual enforcement. Hampshire Constabulary also asserted that using the perceived risk of enforcement as a deterrent is a cost effective approach to road traffic law enforcement. If drivers are able to determine, or think they are able to determine, which camera sites in Hampshire are less likely to be active, Hampshire Constabulary believes it would be necessary to activate cameras at all sites as a countermeasure. Alternatively, it may be necessary to increase the use of mobile enforcement units. Either countermeasure would result in increased costs to the public purse in terms of allocation of manpower and in terms of administrative processes. The Commissioner is persuaded that this likely outcome is not in the public interest.

It has been put to the Commissioner that most drivers, in possession of the requested information or other site specific information about speed cameras, would, nevertheless, continue to comply with the law and not risk exceeding the limit at speed camera sites simply because those sites are thought less likely to be active. The Commissioner is not persuaded by this argument and is concerned that less scrupulous drivers, armed with site specific information about speed cameras in the Hampshire area, would risk non-compliance with the law.

Summary of Decision

While the Commissioner recognises that the release of the requested information would inform the debate about the purpose and efficacy of speed cameras, he is not persuaded that the public interest in informing this debate outweighs the public interest in maintaining both exemptions. This is because he believes that there is a stronger public interest in avoiding the likely increased risk to the health and safety of any individual and the likely increase of non-compliance with road traffic laws. The Commissioner is also persuaded that the release of the requested information would require the public authority to take countermeasures to negate the increased risks that have been identified and that these countermeasures would result in an increased demand on the public purse.