

FREEDOM OF INFORMATION ACT 2000 (SECTION 50)

DECISION NOTICE

Dated 3rd August 2005

**Name of Public Authority: Chief Officer of Police of Essex
Constabulary**

**Address of Public Authority: PO Box 2 HQ
Springfield
Chelmsford
Essex CM2 6DA**

Nature of Complaint

The Information Commissioner (the "Commissioner") has received a complaint which states that on 3 February 2005 the following information was requested from the Chief Officer of Police of Essex Constabulary ("Essex Constabulary") via the Office of the Essex Safety Camera Partnership under section 1 of the Freedom of Information Act 2000 (the "Act"):

"the identity of the 20 fixed camera locations in Essex that catch the most drivers speeding and how many drivers per month or year are caught at each of those locations, and how much money was raised from each location per month or year."

The complainant alleges that Essex Constabulary failed to provide him with his information in accordance with their obligations under Section 1 (1) of the Act because they applied the Section 31 and Section 38 exemptions inappropriately.

Section 31(1) states that:

"Information which is not exempt information by virtue of section 30 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*
- (c) the administration of justice....."*

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....."*

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a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner has under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act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 is satisfied that the application of these exemptions is valid. The Commissioner considers that the public interest in withholding the information requested currently outweighs the public interest in disclosing the requested information.

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 Essex 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 3rd day of August 2005

Signed:

Richard Thomas
Information Commissioner

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

STATEMENT OF REASONS

The Commissioner has reviewed the information in question and has decided that Section 31 and Section 38 have been correctly applied. Section 31 and 38 are qualified exemptions and subject to the public interest test.

Section 31(1) states that:

“Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice

- (a) the prevention or detection of crime*
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- (c) the administration of justice.....”*

It is a traffic offence to drive at speeds in excess of the speed limit and the Commissioner is persuaded that drivers are more inclined to drive within the speed limit in an enforcement zone if they believe the chances of the camera being active are high. The Commissioner is therefore satisfied that the exemption under section 31 does apply.

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.....”*

The Commissioner acknowledges that there are many contributory factors to road traffic accidents, such as alcohol and drugs. However he is persuaded that speeding is also a factor which is likely to contribute to road accidents and that speed cameras are cited at known accident blackspots. He recognises the need to ensure that our roads are as safe as possible and that safety camera technology has a part to play in this. He is therefore satisfied that the section 38 exemption applies because there is an increased likelihood of a road traffic accident if drivers exceed the speed limit, particularly at known accident blackspots where a camera has been sited.

Public Interest Test

Having agreed that both exemptions apply, the Commissioner then considered whether the public interest in maintaining one or both of these exemptions outweighed the public interest in releasing the information. He has concluded that it does and in reaching this decision, the Commissioner has considered the following arguments:

1. The Public Authority's view

Essex Constabulary have argued that:

- a) "Not all camera sites will be active all of the time – some sites will be active on a rotational basis. If information concerning site specific data is released it could give the impression that the chances of being recorded speeding in particular locations was low, which may encourage higher speeds and hence casualties at those locations."
- b) "For camera enforcement to be truly effective there must be the perception that the chances of being recorded are high at all sites."
- c) "Cameras are deployed on an intelligence led basis the disclosure of sites will make this approach invalid."
- d) "The disclosure of specific data on camera sites would make camera deployment less effective which would impact on the safety of pedestrians and road users at large."
- e) "It is in the interest of the public that our roads are kept safe. The ability for safety camera technology to impact on road safety would be diminished by the disclosure of such information and therefore prejudice law enforcement."
- f) "Giving out the top 20 camera locations may provide valuable information to those groups who target these cameras for vandalism and damage"

As a result they have concluded that the arguments for withholding the information are justified.

2. The Complainant's View

In response to the above arguments the complainant has stated that:

- a) "The Essex Camera Safety Partnership has hundreds of fixed sites across the county. Therefore the impact of finding out which 20 sites were most profitable would have a negligible effect on drivers knowing which sites had a low chance of being recorded speeding."
- b) "Right-minded drivers appreciate that fixed cameras on dual carriageways are likely to catch more people speeding than on residential roads in quiet communities because of sheer volume of users."
- c) "Fixed locations do not move around. They are deployed long term; drivers become used to seeing them and can find out where they are on your own website."
- d) "The only way this would happen is if drivers read the article and began driving slower at the sites which were most profitable. Since this the overall aim of speed cameras disclosure of such information is likely to have the opposite effect to what is being claimed."

The Commissioner's Comments

The Commissioner has considered the public interest arguments expressed by both parties. In doing so he has taken into account the following factors:

Law Enforcement

The Commissioner took into account that not all camera housings will be active at all times and that police authorities have limited resources which allows for the rotational use of cameras at these sites. The current system relies on the public perception that all cameras are active. It is a balancing act between the perceived risk of enforcement rather than the harsher regime of actual enforcement. The Commissioner accepts that this is a fine balancing act. If the perception of risk is reduced the Commissioner considers that there is a risk that this may force Essex Constabulary to consider more widespread installation of active cameras. The Commissioner is aware of the public's opinions regarding the use of speed cameras and considers that the possibility of further additional cost to the public and increased revenue generated as a result of an increase in speed offences would not be in the public interest.

One of the arguments raised by Essex Constabulary (please see 1(f) above) is that the disclosure of this information may also encourage these particular cameras to be targeted by vandals and other less law abiding citizens. The Commissioner accepts this is a valid argument and has sufficient merit to justify prejudice to law enforcement and the increased risk to the health and safety of the public.

Health and Safety

The Commissioner is also mindful of the fact that the release of this information is likely to lead to similar requests for this type of information. The Commissioner is aware of number of websites directed at drivers and speed cameras and therefore considers site specific information could result in the formation of a database on the location of live cameras. This could then be used by drivers to ascertain the level of risk at any particular camera site. The Commissioner is persuaded that whilst this may lead some drivers to adhering to the speed limit where they perceive the risk to be higher, conversely such information could be used by drivers to drive at higher speeds where they consider a site to be a "lower risk", leading to an increased risk to the health and safety of the public.

The Commissioner considers that the site specific information as requested by the complainant would lead to drivers being able to deduce those locations where the risk of being caught speeding was less or more likely. The Commissioner has noted that there are currently 95 fixed cameras at present in Essex but not all of these are active, and therefore the release of the "top 20 camera sites" is in the Commissioner's view a significant proportion. If this information was released the Commissioner is persuaded that this could have a realistic impact on drivers speeds where there is by a process of elimination

perceived to be a lower risk of being caught at some sites than at others. This could therefore affect the level of compliance and lead to an increase in road accidents.

Summary of the Commissioner's Decision

The Commissioner recognises the value of improving public awareness and the accountability of public authorities together with the opportunity disclosure would create for further debate on the effectiveness and purpose of speed cameras. However the Commissioner is of the opinion that the release of site specific information is likely to prejudice law enforcement and increase the risk to the health and safety of the public. He is not persuaded that the arguments in favour of disclosure are sufficient to outweigh the public interest in maintaining the exemption. There is in his opinion a stronger public interest in avoiding an increase in non compliance with the road traffic laws and the likely increased risk to the health and safety of the public.