

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

Date 23 October 2006

**Public Authority:** The Chief Officer of South Yorkshire Police  
**Address:** South Yorkshire Police Headquarters  
Snig Hill  
Sheffield  
S3 8LY

### Summary

The complainant requested information about which safety camera was responsible for the highest number of prosecutions. The public authority withheld this information under section 31 of the Act. After consideration of whether this exemption was applied correctly, including consideration of the public interest, the Commissioner has upheld the decision of the public authority to withhold this information.

### The Commissioner's Role

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1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 ('the Act'). This Notice sets out his decision.

### The Request

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2. The following information request was made on 15 July 2005:  
  
"Which fixed position camera was responsible for issuing the most fixed penalty speeding tickets in the last financial year? Please indicate its exact location and how many tickets it issued?"
3. The public authority responded to this information request on 27 July 2005. This response refused the information request, with section 31 cited.
4. The complainant responded to the public authority by letter dated 1 August 2005 to appeal against the public authority's refusal to release the requested information.
5. The public authority responded to this on 8 August 2005. In this response, the public authority upheld its decision to refuse the information request and referred the complainant to Decision Notices issued by the Information Commissioner in relation to similar cases. The public authority did not provide the reference numbers, or give any other details concerning the relevant Decision Notices.

6. The public authority did not, at any stage, give any details of its considerations of the public interest test.

## The Investigation

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### Scope of the case

7. On 11 August 2005 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the public authority's decision to withhold the requested information on the grounds that it was exempt under section 31.
8. At this stage, the complainant advanced the following arguments for the disclosure of the withheld information:
  - The nature of the information requested differs significantly from that requested in the two cases in connection with which the Commissioner has previously issued Decision Notices and to which the public authority has referred in its response to his information request; FS50068601 and FS50068017.
  - Making public the information giving the location of the speed camera responsible for issuing the highest number of penalty tickets would reduce the number of offences at this site as drivers would be aware that they should be particularly careful not to break the speed limit at that location. The release of this information would thus have a positive health and safety impact.
  - Site specific information has been disclosed previously in other areas of the country. The complainant included a newspaper cutting to illustrate this point.
  - Any argument that releasing this information would lead to vandalism against the camera in question is not valid as it is an 'urban myth' that irate motorists attack safety cameras and many safety cameras are largely inaccessible.
  - The public authority has not cited section 38.
  - It is important to be aware of locations where there are a high number of speed offences as this may mean that changes to structure of the road or to the speed limit are necessary.

### Chronology

9. The public authority was contacted initially in connection with this complaint on 14 June 2006. This letter informed the public authority that the complaint had been made and also asked the public authority to provide a copy of the information that had been withheld. The public authority was also advised that if it wished to make any additional submissions in support of its stance, it should do so in response to this letter.

10. The public authority responded to the Commissioner on 31 July 2006. This response provided the information that had been withheld. The public authority did not make any additional submissions in support of its stance that the requested information should be withheld as exempt under section 31. However, in their response the public authority also stated that it believed the information requested to be exempt under section 38. The public authority did not give any supporting arguments as to why it considered this information to be exempt under section 38.
11. The complainant was contacted on 14 June 2006. This letter directed the complainant to a previous notice issued by the Commissioner in which the Commissioner upheld the withholding of information related to safety cameras under sections 31 and 38; FS50066050. This decision was also later upheld by the Information Tribunal

[http://www.informationtribunal.gov.uk/our\\_decisions/documents/hemsley\\_judgment.pdf](http://www.informationtribunal.gov.uk/our_decisions/documents/hemsley_judgment.pdf)

The complainant was invited to make any further submissions as to why, in his view, the information he had requested should be released.

12. The complainant responded by letter dated 26 June 2006. The complainant reiterated his arguments about this case differing significantly from those on which the Commissioner has previously issued a Decision Notice, including the case brought to his attention by the Commissioner. The complainant also advanced the following arguments for the disclosure of the information in question:

- Safety camera partnerships have previously released site specific data, as illustrated by the newspaper cutting provided by the complainant.

- The issue of releasing the information requested leading to the creation of a commercial website providing information about safety cameras is 'not a realistic one' as several such websites exist already.

- The information requested would not allow analysis of enforcement patterns.

- If the camera in question is on a new road or near a school, there would be particular public interest arguments in favour of the release of this information. The complainant states the following by way of argument in relation to this point:

*"Would it not be in the public interest to look at the way the road is set up and the signage to help reduce cars' speed in a more subtle and effective way rather than as some would argue using the blunt tool of a speed camera"*

- The public authority has advanced no arguments in favour of the withholding of the information under sections 31 and 38.

## Findings of fact

13. The public authority cited section 31 as it believed that this stance had been

endorsed in Decision Notices issued previously by the Commissioner.

14. Whilst the public authority did not state to the complainant that information had been withheld as exempt under section 38, the public authority has cited section 38 in its correspondence with the Commissioner. As the independent regulator set up to consider complaints under the Act, the Commissioner will consider all relevant exemptions. The Commissioner will, therefore, consider whether the information requested should be withheld under section 38.
15. The complainant does not agree that the public interest favours the withholding of the requested information. The complainant's arguments are given above.

## Analysis

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### Exemptions

16. The public authority asserted that the release of the requested information would prejudice law enforcement (Section 31). The full text of section 31 is given in the legal annex attached.

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

17. 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. The Commissioner is satisfied that the exemption under section 31 nevertheless applies because he is persuaded that the release of this information may lead less scrupulous drivers to risk exceeding the speed limit at this particular site in contravention of the law. They might take this risk because they could predict, or would believe they could predict, how often the camera is more likely to be activated.
18. The complainant contends that the information that he has requested is not as detailed as has been requested in previous speed camera cases about site specific information where the Commissioner has ruled in favour of the public authority. Although the Commissioner accepts that the information requested in this instance is not as detailed as in previous similar cases, he is satisfied that release of the withheld information would have a prejudicial impact on law enforcement.
19. In this case, the complainant has requested "non comparative" information, that is, the information relating to a single site, rather than several. The Commissioner recognises that this information, in isolation, could not be used to build up a picture of comparative enforcement rates between camera sites. However, he believes that if information is released about this camera site, the public authority would find it difficult to resist a request for prosecution figures relating to other

sites in the South Yorkshire area. By comparing prosecution figures from multiple camera sites, it could be possible to build up a picture of the comparative likelihood of prosecution at individual camera sites.

20. In *Hemsley vs The Information Commissioner and Northamptonshire Police*, ref EA/2005/0026, the Information Tribunal made the following comment regarding precedent setting:

*"Moreover, we are impressed by the argument as to setting a precedent. Whilst every request must be dealt with on its merits, if this request were granted, it is not hard to envisage the difficulties faced by police authorities in dealing with future requests for such information, justified more or less plausibly, as designed to test the efficacy of signs, the hazards posed by weather conditions or the vigilance of drivers at particular times of day. It might be difficult to distinguish between the public spirited motivation of such as the appellant [who had concerns about adequacy of signage at the site in question] and others whose purpose was less admirable, for example the creation of a commercial website selling forecasts on the operation of safety cameras."* (Paragraph 23).

21. The complainant also contends that it would not be prejudicial to law enforcement to release information on which camera led to the issuing of the most speeding tickets as the knowledge of the high rates of tickets issued by the camera in question would mean that drivers would slow down when approaching this camera. However, as mentioned above, the Commissioner recognises that part of the policy for use of safety cameras is that they are operated intermittently. The Commissioner recognises that knowledge of the number of tickets issued as a result of a particular camera would undermine this policy, which relies on the assumption of drivers that there is a high likelihood that the camera is operational.

### **Public Interest Test**

22. The Commissioner recognises that the increased likelihood that the law would be broken as an indirect consequence of the release of the requested information is, of itself, a powerful public interest argument in favour of maintaining the law enforcement exemption. The Commissioner recognises that the police do not keep speed cameras on permanently because they believe that the potential risk of enforcement is as strong a deterrent as the certainty of enforcement. There are strong public interest arguments in supporting this policy. Chief among these is greater value for money. Administration of traffic enforcement is much cheaper using intermittent rather than permanent enforcement zones because fewer penalty notices are actually issued (each requiring administrative work). It also encourages voluntary compliance with the law which makes the work of the police in this area much easier and allows them to focus resources where there is greater need.
23. It is not the Commissioner's role to adjudicate in the ongoing debate about the purpose and efficacy of speed cameras although he recognises that there is a public interest in informing this debate at both a local and national level. He acknowledges that many road users have genuine concerns about national road safety policies and strategies and wish to challenge those policies using relevant information.

24. However, in the Commissioner's view, the release of the information requested here would not contribute significantly to that debate. He is satisfied that in the circumstances of this case, the public interest in maintaining the law enforcement exemption outweighs the public interest in disclosing the requested information.

### Section 38

25. Although the public authority did raise section 38 in its correspondence with the Commissioner, he does not propose to consider the arguments in relation to that exemption. This is because he is persuaded that section 31 applies in relation to all the requested information. The Commissioner is also persuaded that the public interest in maintaining that exemption outweighs the public interest in disclosure.

### The Decision

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26. The Commissioner finds that section 31 was applied correctly to the information withheld. The Commissioner also finds that the public interest favours the withholding of the information.

### Steps Required

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27. The Commissioner requires no steps to be taken.

### Right of Appeal

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28. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:

Information Tribunal  
Arnhem House Support Centre  
PO Box 6987  
Leicester  
LE1 6ZX

Tel: 0845 600 0877  
Fax: 0116 249 4253  
Email: [informationtribunal@dca.gsi.gov.uk](mailto:informationtribunal@dca.gsi.gov.uk)

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

**Dated the 23rd day of October 2006**

**Signed .....**

Reference: FS50086169



Information Commissioner's Office

**Richard Thomas**  
**Information Commissioner**

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