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Web Site: www.dft.gov.uk

Our Ref: F0008434

14th February 2012

Dear XXXXXXXXXXXXXXX,

Freedom of Information request: F0008434

I am writing in response to your request for information, received on 16th December 2011. In that request you asked for a list of all payments made by the Department for Transport to firms of private investigators (also known as inquiry agents) since 1 May 2010 including any firm listed as a member of the Association of British Investigators. For each payment, you asked for;

- The cost of the work commissioned
- The date
- Which office, sub-department or agency of the Department commissioned the work
- In as much detail as possible, the nature and scope of the task commissioned, in particular, a description of who or what the target of the inquiry was, what information was sought, and for what reason
- What methods the investigators used (surveillance; video surveillance; public records (please specify); non-public records (please specify); other (please specify).
- What the outcome of the inquiry was.

The Department for Transport includes seven agencies, a shared service centre and the central Department. In respect of any investigators commissioned from the Cabinet Office panel of independent investigators, the Department can neither confirm nor deny whether it holds information on the commissioning, including for what purpose, of such individuals. The duty in section 1(1)(a) of the Freedom of Information Act 2000 (FOIA) to confirm whether or not information is held does not apply, by virtue of section 31(3) FOIA. To confirm or deny whether any such information is held would be likely to prejudice the Department's functions, which include ascertaining whether any person has failed to comply with the law, and ascertaining whether any person is responsible for any conduct which is improper. However, this should not be taken as conclusive evidence that any such information is or is not held by the Department.

In applying the section 31(3) FOIA exemption, we have considered the public interest for and against neither confirming nor denying that we hold the information requested. It was determined that in this case, to either confirm or deny whether the Department holds the information requested would be likely to prejudice the conduct or outcome of current or future investigations and that this is not in the public interest.

The independent investigators panel investigates government leaks and therefore information about the existence as well as scope, frequency and duration of leak investigations could expose weaknesses, enable individuals or organisations to evade detection and would prejudice the ability of departments to investigate issues and take any necessary action. It was acknowledged that answering this question would promote understanding, accountability and transparency of the actions taken by the Department, any money spent by it, and allow citizens to understand or challenge decisions made by it. However it is vital to ensure that the Government can keep sensitive information secure and therefore the overriding public interest is in ensuring that these investigations are as effective as possible. There is also a strong public interest in favour of ensuring public confidence in and integrity of the process of such investigations, should they occur, is maintained.

In respect of private investigators other than those referred to above the Department does hold the information you requested but has decided that some of this information cannot be disclosed for the reasons given below.

Centrally available records show that since 1st May 2010 the following payments were made to firms of private investigators, by the Driving Standards Agency (DSA):

Date	Amount paid to private investigators/inquiry agents by DSA
11 May 2010	£211,500
23 June 2010	£211,500
8 July 2010	£299,625
10 August 2010	£211,500
8 September 2010	£211,500
12 October 2010	£211,500
13 October 2010	£70,500
9 November 2010	£211,500
21 December 2010	£211,500
7 January 2011	£211,500
24 January 2011	£70,500
4 February 2011	£216,000
4 March 2011	£216,000
12 April 2011	£338,400
12 May 2011	£162,000
10 June 2011	£162,000
8 July 2011	£216,000
9 August 2011	£162,000
6 September 2011	£162,000
11 October 2011	£216,000
9 November 2011	£162,000
6 December 2011	£162,000

The above table refers to payments made by date and doesn't necessarily refer to work carried out in that month. Each payment may refer to more than one investigation or enquiry.

These figures do not include payments where records are not available centrally. While some of this information may exist in records held locally within the central Department and the Agencies, it could only be obtained at disproportionate costs in excess of £600. Therefore the information being withheld falls within the section 12 FOIA exemption. Annex A to this letter sets out the exemption in full.

The nature of each investigation would potentially fall within one of the following areas:

- investigations of suspected impersonation at driving tests
- investigations of suspected illegal driving instruction
- investigations of suspected criminal activity or misconduct involving compulsory basic training for motorcycles
- investigations of suspected misconduct by approved driving instructors
- investigations of suspected criminal activity or gross misconduct of employees

We do not hold, in a central record, information on the target, reason, information sought and the scope of each enquiry or investigation. To compile this information, as well as any further information on the nature of each investigation/enquiry, would involve us manually reviewing the file of each investigation or enquiry.

There were 1,645 investigations/enquiries carried out between 1 May 2010 and 30 November 2011 and we have estimated that this information could only be obtained at disproportionate costs in excess of £600. Therefore the information being withheld falls within the section 12 FOIA exemption.

Were we able to compile information on the nature, target, reason, information sought and scope for each enquiry or investigation, it is likely that we would consider withholding some of the information requested, particularly on those cases where the investigation is still continuing, under section 31(1)(g) FOIA (law enforcement) in conjunction with sections 31(2)(a) and (b) FOIA. It is also likely that we might need to neither confirm nor deny, under section 31(3) FOIA, whether specific investigations were carried out. These are qualified exemptions and our consideration would include a public interest test. As above, Annex A to this letter sets out the exemptions in full.

Some of the information held would also be the personal data of the individual or individuals that the investigation or enquiry is about. This information may be withheld under section 40 FOIA (personal information). Annex A to this letter sets out the exemption in full.

However, you may find more information on the target, reason, information sought, scope and further information on the nature of the investigation/enquiry in some of DSA's press releases, which are issued once an investigation/enquiry has been concluded. You can find DSA's press releases online at:

<http://www.dft.gov.uk/news?agency=dsa> and

<http://www.dft.gov.uk/site/archive/dsa-archive/>

The methods used by firms of private investigators can include covert surveillance, video and photographic evidence as part of that surveillance, examination of DSA computer systems and records, interviewing witnesses and statements taken of said witnesses, and examination of public records.

From 1 May 2010 to 30 November 2011, DSA received 4,088 notifications of suspected criminal activity, primarily from the Agency's theory and practical test staff. Often we receive a number of reports that link together and when we do we combine them into a single investigation. While investigating these incidents, however, we invariably uncover other connected cases which are fully investigated as well. Therefore the 4,088 notifications, including where investigations have identified further cases, relate to the total of 1,645 investigations.

Between 1 May 2010 and 30 November 2011, 511 individuals were arrested many of whom are still within the criminal justice system. 141 individuals were convicted and 163 individuals received police cautions.

In keeping with the spirit and effect of the FOIA, all information is assumed to be able to be released to the public unless it falls within one of the exemptions. The Department may, therefore, simultaneously release to the public the information released to you, together with any related information that will provide an insight to its wider context.

If you are unhappy with the way the Department has handled your request or with the decisions made in relation to your request you may complain within two calendar months of the date of this letter by writing to the Department's Information Rights Unit at:

Zone D/04
Ashdown House
Sedlescombe Road North
Hastings
East Sussex TN37 7GA
E-mail: FOI-Advice-Team-DFT@dft.gsi.gov.uk

Please see attached details of DfT's complaints procedure and your right to complain to the Information Commissioner.

If you have any queries about this letter, please contact XXXXXXXXXXXXXXXX in our press office on XXXXXXXXXXXXXXXX. Please remember to quote the reference number above in any future communications.

Yours faithfully

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Your right to complain to DfT and the Information Commissioner

You have the right to complain within two calendar months of the date of this letter about the way in which your request for information was handled and/or about the decision not to disclose all or part of the information requested. In addition a complaint can be made that DfT has not complied with its FOI publication scheme.

Your complaint will be acknowledged and you will be advised of a target date by which to expect a response. Initially your complaint will be re-considered by the official who dealt with your request for information. If, after careful consideration, that official decides that his/her decision was correct, your complaint will automatically be referred to a senior independent official who will conduct a further review. You will be advised of the outcome of your complaint and if a decision is taken to disclose information originally withheld this will be done as soon as possible.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex A

Section 12 of the Freedom of Information Act provides that:

1. Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.
2. Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.
3. In subsections (1) and (2) “the appropriate limit” means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases.
4. The Secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority—
 - (a) by one person, or
 - (b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign,the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.
5. The Secretary of State may by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are to be estimated.

Section 31 of the Freedom of Information Act provides that:

1. 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,
 - (d) the assessment or collection of any tax or duty or of any imposition of a similar nature,
 - (e) the operation of the immigration controls,
 - (f) the maintenance of security and good order in prisons or in other institutions where persons are lawfully detained,
 - (g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2),
 - (h) any civil proceedings which are brought by or on behalf of a public authority and arise out of an investigation conducted, for any of the purposes specified in subsection (2), by or on behalf of the authority by virtue of Her Majesty's prerogative or by virtue of powers conferred by or under an enactment, or
 - (i) any inquiry held under the Fatal Accidents and Sudden Deaths Inquiries (Scotland) Act 1976 to the extent that the inquiry arises out of an investigation conducted, for any of the purposes specified in subsection (2), by or on behalf of the authority by virtue of Her Majesty's prerogative or by virtue of powers conferred by or under an enactment.
2. The purposes referred to in subsection (1)(g) to (i) are-
 - (a) the purpose of ascertaining whether any person has failed to comply with the law,
 - (b) the purpose of ascertaining whether any person is responsible for any conduct which is improper,
 - (c) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise,
 - (d) the purpose of ascertaining a person's fitness or competence in relation to the management of bodies corporate or in relation to any profession or other activity which he is, or seeks to become, authorised to carry on,
 - (e) the purpose of ascertaining the cause of an accident,
 - (f) the purpose of protecting charities against misconduct or mismanagement (whether by trustees or other persons) in their administration,
 - (g) the purpose of protecting the property of charities from loss or misapplication,

- (h)** the purpose of recovering the property of charities,
 - (i)** the purpose of securing the health, safety and welfare of persons at work, and
 - (j)** the purpose of protecting persons other than persons at work against risk to health or safety arising out of or in connection with the actions of persons at work.
3. The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice any of the matters mentioned in subsection(1).

Section 40

Personal Information

1. Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.
2. Any information to which a request for information relates is also exempt information if:
 - (a) it constitutes personal data which do not fall within subsection (1), and
 - (b) either the first or the second condition below is satisfied
3. The first condition is:
 - (a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene:
 - (i) any of the data protection principles, or
 - (ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and
 - (b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.
4. The second condition is that by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1)(c) of that Act (data subject's right of access to personal data).
5. The duty to confirm or deny:
 - (a) does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1), and
 - (b) does not arise in relation to other information if or to the extent that either:
6.
 - (i) the giving to a member of the public of the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) contravene any of the data protection principles or section 10 of the Data Protection Act 1998 or would do so if the exemptions in section 33A(1) of that Act were disregarded, or
 - (ii) by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1)(a) of that Act (data subject's right to be informed whether personal data being processed).

7. In determining for the purposes of this section whether anything done before 24 October 2007 would contravene any of the data protection principles, the exemptions in Part III of Schedule 8 to the Data Protection Act 1998 shall be disregarded.

8. In this section:

"the data protection principles" means the principles set out in Part I of Schedule 1 to the Data Protection Act 1998, as read subject to Part II of that Schedule and section 27(1) of that Act;

"data subject" has the same meaning as in section 1(1) of that Act;

"personal data" has the same meaning as in section 1(1) of that Act.