

Ref HQ 16022

23 May 2016

Dear [REDACTED]

FREEDOM OF INFORMATION REQUEST

Thank you for your recent freedom of information request, which was received on 27 April 2016. This gives a statutory deadline for responding of 26 May 2016 under the terms of the Freedom of Information (Scotland) Act 2002.

You asked the following, and for ease of reference I have copied your original questions as follows.

1. Please could you confirm what data is collected and recorded by the device when it blocks / intercepts a mobile phone signal?
2. Please could you confirm the total number of mobile phone numbers that have been blocked / intercepted by the system since it was installed, or if this is unavailable, the period for which records are available?
3. Please could you confirm whether the influence of the device is contained within the perimeter of the prison, and whether any tests have been conducted outside the perimeter to establish whether members of the public outside the prison grounds could be affected? Please supply recorded documentation that relates to these tests.
4. Please can you confirm whether prisoners, visitors, prison staff and suppliers are warned that a mobile phone blocking device is in operation on the site? If so, how?
5. Could you confirm whether the system is capable of discerning between prisoners, visitors, prison staff and suppliers? If so, how many 'non prisoner' mobiles phones have been intercepted / blocked by the device.
6. Please could you supply the data retention policy applied to the information collected by the device?
7. Has a privacy impact assessment been conducted in relation to the use of this device?
8. How many illegal/ prisoner mobile phones has the device helped to identify and track down? Have any prosecutions resulted as a direct consequence of the use of this device?

9. Which prison is the device installed in

10. Has any evaluation been undertaken as to the impact of the device? If so supply this documentation.

In response to **Requests for Information 1 & 2**; having completed our search of all electronic and paper records held by the SPS I can confirm the following

1. Only IMEI & IMSI numbers are recorded with a date and time stamp.
2. This information is not held. There are no records held for mobile phone numbers because the scope of the design and installation of the device did not specify this as a requirement.

In response to **Request for Information (RFI) 3**; we can confirm that the influence of the device is managed in accordance with the Memorandum of Understanding (MoU) agreed between the SPS, OFCOM and the Mobile Network operators. We can also confirm that comprehensive and independent tests have been carried out annually by the Home Office to evidence compliance with the MoU and the ACT. You will note that we have already provided a copy of this Act in response to your previous FOI request (our reference HQ16002 dated 26 April 2016)

The reports completed by the Home Office are considered exempt under section s.35 (1)(f) of FOISA . This relates to the recorded documentation. As this exemption is not absolute we have applied the 'public interest test'. This means we have, in all the circumstances of this case, considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. It should be noted that the test considers what is in the public interest not what is of interest to the public. Arguments in favour of disclosure are that public are aware of the details of the tests carried out and the results achieved as evidence of compliance to the Prisons (Interference with Wireless Telegraphy) Bill October 2012. However, it can also be argued that disclosure of such information could provide following research, details of the limitations of such installations & technology and the potential to deploy countermeasures to overcome the signal denial transmissions. This would represent a considerable risk to individuals and the security and good order of prisons which would not serve the public interest. In addition the acceptance of compliance by the Office of Communications (OFCOM) should provide the public with sufficient reassurance of such compliance. Following careful consideration the authority considers that, on balance, the public interest lies in favour of applying the exemption and refusing disclosure.

In response to **RFI 4**; we can confirm that prisoners and prison staff are fully aware through notices provided at the time of installation of the operation of the device. The system was also publically launched at a media event by the then Cabinet Secretary for Justice. We can further confirm that the influence of the device does not include public accessible areas of the prison including staff facilities and, in addition, there is no requirement to inform visitors and suppliers within the area of influence of the device as the introduction and use of mobile phones within all Scottish Prisons is illegal and, notices are published throughout the prisons to warn of this. For clarity, the law also applies to SPS staff.

In response to **RFI 5**; The SPS does not hold this information. For clarity, we can confirm that there is no requirement for the system to discern the source. As stated in the response to Q4, the introduction and use of mobile phones within all Scottish prisons is illegal.

In response to **RFI 6**; The SPS does not hold this information. For clarity, we can confirm that there is no retention policy specific to the information collected by the device. In practise we purge all the data on a monthly basis which is greater than that specified in the Prisons (Interference with Wireless Telegraphy) Act 2012.

In response to **RFI 7**; The SPS does not hold this information. For clarity, we can confirm there is no requirement for a privacy impact assessment to be conducted in relation to the use of this device given the legislative powers to interfere with wireless telegraphy within the prison perimeter. In addition no privacy impact assessment was assessed as necessary for the Act. Please see more information here:

<http://www.publications.parliament.uk/pa/bills/cbill/2012-2013/0015/en/13015en.htm>

In response to **RFI 8**; The SPS does not hold this information, this is because the system is not designed to track down and aid the recovery of mobile phones and therefore we cannot attribute any prosecutions resulting as a direct consequence of the use of this device.

In response to **RFI 9**; we can confirm that the device is installed in HMP Shotts, North Lanarkshire.

In response to **RFI 10**, we do endeavour to provide information whenever possible however in this instance an exemption under section s.35 (1)(f) of FOISA applies to some of the information requested - The maintenance of security and good order in prisons. This relates to some of the content of the documentation on the evaluation of the impact of the device. As this exemption is not absolute we have applied the 'public interest test'. This means we have, in all the circumstances of this case, considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. Arguments in favour of disclosure are that public are aware of all the details of evaluations carried out. However, it can also be argued that disclosure of such information could provide following research, details of the limitations of such installations & technology and the potential to deploy countermeasures to overcome the signal denial transmissions. This would represent a considerable risk to individuals and the security and good order of prisons which would not serve the public interest. Following careful consideration the authority considers that, on balance, the public interest lies in favour of applying the exemption. We do however enclose a redacted copy of the End of Project report from pilots carried out to trial Mobile Phone Signal Intervention technology.

We are sorry that our responses are in PDF form however this is the format we use in all our FOI communications. If you are dissatisfied with this response, you have the right to request a review. Your request should be made within 40 working days of the date of receipt of this letter and we will reply within 20 working days of receiving your request. Under section 20(3)(c)(ii) of the Act your request should outline your reason for seeking a review. If our decision is unchanged following a review and you remain unsatisfied with this, you then have the right to make a formal complaint to the Scottish Information Commissioner.

If you require a review of our decision to be carried out, please write to Colin McConnell, Chief Executive, Scottish Prison Service, Calton House, Redheughs

Rigg, Edinburgh EH12 9HW. The review will be undertaken by staff not involved in the original decision making process.

I trust this information is helpful.

Yours sincerely

Lyndsey Talbot
Corporate Communications Manager
Scottish Prison Service