

Baroness Jenny Jones

Investigation into the deletion of material relating to Baroness Jenny Jones and/or the Undercover Policing Inquiry.

> Independent investigation report

> Investigation information

Investigation name:	Baroness Jenny Jones
IOPC ¹ reference:	2016/076004
Investigation type	Conduct matter
IOPC office:	Croydon
Lead investigator:	Edward Parsons
Case supervisor:	Dilvinder Norris
Director General delegate (decision maker):	Sarah Green
Status of report:	Final
Date finalised:	14 February 2019

¹ On 8 January 2018, the Independent Police Complaints Commission (IPCC) became the Independent Office for Police Conduct (IOPC). We have referred to ourselves as the IOPC within this report.
Final Version

> The investigation

- D1
1. In November 2016, Bindmans LLP wrote to the IOPC on behalf of Baroness Jenny Jones. They wrote *'to formally complain of allegations of serious misconduct by five or more officers of the Metropolitan Police involved in the destruction of police records by 'shredding', and / or deleting of data bases and information stored on those data bases on or about June 2014. The documents did, or may have related to Baroness Jones but were, it seems, relevant to the Pitchford Public Inquiry into undercover Policing in any event.'*
 2. This matter has previously been subject to a fact-finding exercise completed by the Metropolitan Police Service (MPS) between July 2014 and June 2015. During this exercise, the MPS generated a large amount of material which has been passed to the IOPC.

D9

> Terms of reference

3. The terms of reference for this investigation were split into two parts. The first was to investigate the alleged destruction of material within the National Domestic Extremism and Disorder Intelligence Unit (NDEDIU) in June 2014 relating to Baroness Jenny Jones and/or the Undercover Policing Inquiry. In particular:
 - a) Why information was obtained and held on Jenny Jones.
 - b) Who authorised and conducted any permanent destruction of material around June 2014.
 - c) Whether any permanent destruction of material relating to Baroness Jones was conducted with the intention of preventing her from obtaining the material in accordance with the Data Protection Act 1998 and/or to cover up the improper obtaining and retention of personal data.
 - d) Whether there is any evidence to suggest the permanent destruction of material within the NDEDIU was in order to intentionally dispose of material relevant to the planned undercover policing public inquiry.

The second was to examine the response of the MPS Directorate of Professional Standards (DPS) officers to the allegation of documentation being destroyed within the NDEDIU, specifically:

- a) The actions and decisions of those aware of the allegation in relation to the actual and potential evidence available

> Subjects

4. There were 5 subjects identified in this investigation, as detailed in the table below:

Name and role	Brief description of alleged conduct/breach of Standards of Professional Behaviour	Severity Assessment	Date notified
Officer Alpha	Allegedly gave the authority for and/or contributed towards the permanent destruction of material pertaining to Baroness Jones around June 2014.	Gross Misconduct	15 March 2017
Officer Bravo	Allegedly contributed towards the permanent destruction of material pertaining to Baroness Jones around June 2014 by instructing Officer Juliet to electronically remove files.	Gross Misconduct	5 May 2017
Officer Golf	Allegedly contributed towards the permanent destruction of material pertaining to Baroness Jones around June 2014.	Gross Misconduct	5 May 2017
Officer A1	Allegedly contributed towards the permanent destruction of material pertaining to Baroness Jones around June 2014 by electronically removing files	Gross Misconduct	5 May 2017
Officer Juliet	Allegedly contributed towards the permanent destruction of material pertaining to Baroness Jones around June 2014 by shredding paper documents and electronically removing files	Gross Misconduct	9 May 2017

- 5. On the same date the officers were notified that they were under investigation, they were also informed via letter that they were being investigated for the criminal offence of Misconduct in Public Office.

6. Officer Alpha and Officer Bravo were both interviewed under criminal caution. Officer Golf, Officer A1 and Officer Juliet all provided a written response prior to interview and it was decided that an interview was not required.
7. Due to the evidence available, which this report will summarise and analyse, the officers were informed on 20 April 2018 that they were no longer under investigation for a criminal offence as there was no longer an indication of a criminal offence. They remained under investigation for gross misconduct.
8. As of January 2019, none of the five subject officers involved in this matter were still in the employment of the MPS.

> Background information

> The National Domestic Extremism and Disorder Intelligence Unit (NDEDIU)

- D42
9. In 2010 three national units merged to become the National Domestic Extremism Unit (NDEU). This was a single unit with responsibility for domestic extremism intelligence. In January 2011, the ACPO Chief Constables' Council ratified the decision for the MPS to become the lead force for the NDEU under the governance of SO15 (Counter Terrorism Command). While the MPS operated as the main force, the NDEU employed officers from a number of different forces during its operation and worked as a national asset.
- D42
10. On 1 May 2013, the NDEU was re-named the NDEDIU. It has since had several name changes and is currently National Counter Terrorism Policing Operations Centre (NCTPOC). During this report the unit will be referred to as the NDEDIU as this was used at the time of the alleged incident (June 2014).
- D42
11. The NDEDIU was responsible for receiving intelligence from local police forces and storing, interpreting, analysing and disseminating domestic extremism related intelligence to local police forces. The NDEDIU also supported local police forces in relation to domestic extremism matters and provided a strategic overview to police

forces and Her Majesty's Government about domestic extremism in the UK. Prior to 2013, the then-NDEU had conducted undercover operations directly. This ceased when it became the NDEDIU, however, and it took on a more purely intelligence handling role.

12. The actions of the NDEDIU and its predecessors are one of the areas under examination by the Undercover Policing Inquiry, otherwise known as the UCPI or the Pitchford Inquiry.

> National Special Branch Intelligence System (NSBIS)

13. The National Special Branch Intelligence System, known as NSBIS, was an electronic information system used by the NDEDIU and by police forces.
- D43 14. Police Staff A2, {redacted}, has provided a statement to the UCPI detailing the background and structure of NSBIS. Police Staff A2 stated it was an electronic database used to store information and intelligence relevant to domestic extremism and counter terrorism policing. Each police force and a small number of national units (such as the NDEDIU) have their own installation of NSBIS which are often referred to as 'local NSBIS'. There is also a national installation referred to as 'NSBIS-N'.
- D43 15. When forces input information onto their local NSBIS, this was automatically uploaded to NSBIS-N. While there was an option to prevent this from happening, basic details associated with an entry such as names, addresses and telephone numbers would still be uploaded to NSBIS-N.
16. On local installations of NSBIS, there was an option for forces to pass information uploaded directly to the NDEDIU's installation of NSBIS, if they considered it relevant to the NDEDIU's role of assessing national intelligence relating to domestic extremism.
- D43 17. Police Staff A2 also explained how records were removed from NSBIS and the trail that this process left. A user could identify a record as being 'appropriate for disposal' and then trigger a review by placing it into a review list. If the reviewer made a decision to dispose of the record, it was placed into a 'weed list'. The records were deleted from this second list automatically at a set period, which was usually monthly unless the NSBIS

administrator changed its frequency. Records were also automatically placed onto a weed list after a certain amount of time (dependent on the type of information).

D43 18. The NDEDIU moved to a new NSBIS database in May 2014. This followed an inspection by HMIC, which has noted the very large volume of material being retained. One of the purposes of the move was to reduce the volume of material on NSBIS. Some but not all records were migrated across from the legacy database (the term used for the version prior to May 2014) to the “live” database, which was used from that point forward.

D33
D47 19. Three instances (backups) of the NSBIS database used by the NDEDIU were retrieved by the MPS during their fact-finding investigation into the allegations this investigation cover. The three instances were dated as follows:

Instance A – 16 January 2015

Instance B – 5 September 2015⁵

Instance C – 7 March 2014

These instances will be referred to throughout this report.

20. This investigation has focused on the material held on NSBIS, as this is the database over which the NDEDIU had ownership and from which any alleged deletions would have been the made. The investigation has not reviewed the content of other police systems, such as the MPS CRIMINT system, except to confirm whether items from those systems previously disclosed to Baroness Jones under the DPA remained available.

> Domestic Extremism

D2
D3
R2 21. As a result of two HMIC inspections in 2012 and 2013, it was recommended that the NDEDIU adopt the ACPO definition of domestic extremism. This was:

‘Domestic extremism and extremists are the terms used for activity, individuals or campaign groups that carry out criminal acts of direct action in furtherance of what is

⁵ Instance B should read 5 September 2014

typically a single issue campaign. They usually seek to prevent something from happening or to change legislation or domestic policy, but attempt to do so outside of the normal democratic process.'

- D34 22. On 11 March 2014, Officer A3 sent a letter to Baroness Jones stating that as a result of a further HMIC inspection, the NDEDIU now used the following definition for domestic extremism:

"Domestic extremism relates to the activity of groups or individuals who commit or plan serious criminal activity motivated by a political or ideological viewpoint."

> Evidence and Analysis

> Whether information was obtained and held on Baroness Jenny Jones

Evidence

- D31 23. On 27 June 2013, Baroness Jenny Jones applied to the MPS for all information held about her by the National Police Order Intelligence Unit (NPOIU), the CO11 Public Order Intelligence Unit and CRIMINT, the Metropolitan Police Services own intelligence system. This followed a template published by the Guardian Newspaper on how to request your information held on these databases and came in the form of a Subject Access Request (SAR) under the Data Protection Act (1998).
- D6
D25
D31 24. On 9 August 2013 The MPS responded with 17 records (consisting of five records from NSBIS and twelve from the MPS CRIMINT system) pertaining to Baroness Jones. The records on NSBIS were as follows:
- 5 May 2009 – United campaign against police violence launch rally. Speakers include Jenny Jones (Green Party).
 - 20 and 23 May 2009 – United Campaign Against Police Violence Vigil & Demonstration. Jenny Jones (Green Party) quoted as saying *'this is a demo with a difference – we are going to show the Met that we are tired of the illegal*

imprisonment that they call “containment” and that we want them to change their attitude to protestors and become law abiding themselves’.

- 27 May 2012 – Anti GM campaigners attended Rothamsted Park to hold a protest regarding genetically modified wheat crop in an open field. Speaker included Jenny Jones (London Green Party Member)
- 27 May 2012 – Anti GM campaigners intend to protest. Jenny Jones confirmed as a speaker.
- Open source research indicated that Green Party member Jenny Jones had tweeted that she would be attending the Critical Mass Vigil on 10 August 2012 and was concerned that she may have been kettled by the MPS.

D34 25. On 28 November 2013, Officer A4 wrote to Baroness Jones to inform her that when someone requests information held on them on a particular database, as Baroness Jones did, other databases are also searched. He explained that a decision is then made as to whether the data can be disclosed paying due regard to the limitation of the subject access provisions and the categories of data which are exempt from disclosures in certain circumstances. Further to this, he informed Baroness Jones that any information held by the NDEDIU was subject to regular reviews.

D34 26. On 6 December 2013, Baroness Jones responded to this letter. She highlighted her concern that several topics previously discussed between the pair (no further details known) had not been addressed. Baroness Jones asked four questions relating to information held on her, which were as follows:

‘1) Who authorised the collection of data of information on an elected politician

2) At what level within the Metropolitan Police was the collection and retention of information on a democratically elected representative sanctioned?

3) Do the Metropolitan Police regard the information stored on my file as intelligence that is of any demonstrable use to policing?

4) Is my file still held on the Database? If so, please could you let me know why the retention of this data was deemed necessary and justified?’

- D34 27. On 28 February 2014, Police Staff A5, {redacted}, informed Baroness Jones that her SAR had been reviewed and all information she was entitled to under the legislation had been disclosed. Baroness Jones was directed to the Information Commissioner's Office (ICO) if she wished to appeal. It is not known if Baroness Jones made an appeal to the ICO.
- D34
D51 28. On 12 June 2014, Baroness Jones met with Officer Alpha⁶. During this meeting it appears that Officer Alpha spoke with Baroness Jones about the changes that had been made to the NDEDIU following an inspection by HMIC, including that Undercover Officers (UCOs) were no longer used after the transition to become the NDEDIU.
- D51 29. On 18 June 2014, Officer Alpha sent an email to various people for the attention of Officer A6. In his email, Officer Alpha detailed that he had personally reviewed any references to Baroness Jones on the NDEDIU database and there was only one live record which they said 'may or may not relate to' Baroness Jones.
- D34 30. On 9 February 2015, Officer A4 wrote to Baroness Jones and stated that having made some enquiries, he was of the understanding that during her meeting with Officer Alpha, Baroness Jones had been informed that she was not a nominal, or person of interest, on the NSBIS database.
- D34 31. On 25 February 2015, Baroness Jones responded to this letter and stated that she was not informed of this by Officer Alpha or Officer Bravo during this meeting. Baroness Jones asked Officer A4 to confirm six further points which were as follows:
- '1) I am not on the National Special Branch Intelligence System*
 - 2) Whether I have ever been on the National Special Branch Intelligence System database*
 - 3) On what dates I, or files about me, were included on the National Special Branch Intelligence System database*
 - 4) For what reason I was included on the National Special Branch Intelligence System database*

⁶ Baroness Jones met with Officer Alpha and Officer Bravo

5) *If I, or files relating to me, have been removed, on what date or dates this took place*

6) *And for what reason were the files relating to me removed?*

- D34 32. On 15 April 2015, Officer A4 replied to Baroness Jones. He stated that having spoken further with Officer Alpha, they were mistaken in believing that Baroness Jones had been informed that she was not on NSBIS.
33. Officer A4 further reiterated the information Police Staff A5 had provided to Baroness Jones, informed her that all the information required under the Data Protection Act (DPA) had been released to her and directed her to the ICO if she wished to appeal. Officer A4 outlined the case of 'R (Catt) v Commissioner of Police of the Metropolis² and another' in regards to Baroness Jones's concerns at how the MPS retained data, especially in regards to the NDEDIU.
- D34 34. On 3 August 2015, Baroness Jones further wrote to Officer A4 stating that she had not received a response to her letter dated 25 February 2015. On 11 August 2015, Officer A4's response from 15 April 2015 was resent to Baroness Jones.
- D32 35. On 5 October 2015, Baroness Jones made a second SAR application, applying for details of her file under the '*Standard Police Notification for Purpose of Policing within the National Domestic Extremism and Disorder Intelligence (NDEDIU), formerly NPOIU, database.*' She received a document outlining one record from the live NSBIS database.
- D34 36. Baroness Jones wrote to Officer A4 having received the result of her SAR application. Having received 17 recorded entries (although Baroness Jones appears to believe she received 14) in 2013 and 1 in 2015, Baroness Jones asked the following questions:
- 1. Were the 14 entries up to 2012 deleted or just not sent again?*
 - 2. Could those 14 entries be in another database?*
 - 3. Why did the Met still log one of my activities after I was told my file was deleted?*
 - 4. Has my earlier file been deleted and if so, when?*

² This case has recently been heard by the European Court of Human Rights. Please see below at paragraphs 70 and 78 for further comment.
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5. Has the subsequent file been deleted and if so, when?’

- D34 37. The {redacted}, Police Staff A7, responded to Baroness Jones in a letter dated 4 January 2016. He informed her that in accordance with the DPA, all information which was required to be released had been disclosed to her.
- D25 38. In January 2016, following allegations in The Guardian Newspaper that records relating to Baroness Jones had been destroyed, the Inquiry Review and Support Command (IRSC) asked Police staff A8 attached to National Counter Terrorism Police Operations Centre, to check the results of Baroness Jones’ SAR requests.
39. The results of these checks were as follows:

Legacy database:

<u>Search term used</u>	<u>Total possible hits</u>
Jenny Jones	69 possible hits
Jenny Jones & MP	20 possible hits
Jenny Jones & Green Party	10 possible hits

Live NSBIS database (as at January 2016):

<u>Search term used</u>	<u>Total possible hits</u>
Jenny Jones	4 possible hits
Jenny Jones & MP	1 possible hit
Jenny Jones & Green Party	2 possible hits

- D25 40. It is worthy of note that from the above results, a large number of documents are duplicated in the search terms. Broad terms such as ‘Jenny Jones’ would have encompassed returns found by using tighter terms such as ‘Jenny Jones & MP’ and ‘Jenny Jones & Green Party’.

- D23
D25 41. Following the search results by Police Staff A8, Officer A9 (IRSC) attended the offices of the NDEDIU on 27 January 2016 and identified 40 documents which he believed could have related to Baroness Jenny Jones. 39 of these were from the legacy database and the other from the live database.
- D24 42. Of the remaining hits that were assessed as not relating to Baroness Jones from the legacy database, it was decided that there was sufficient doubt on 20 of these to conduct a further review. These records were obtained by the IRSC on 20 February to conduct further checks. The remaining items in the legacy database were considered clearly unrelated to Baroness Jones as the date of birth recorded was incorrect.
- D24 43. The checks on these 20 documents showed that the name Jenny Jones appeared on each record, but with no other biographical details recorded. They included lists of attendees at events such as a national animal rights gathering and a reference to a “Jenny Jones” being {redacted} on a {redacted} Group page.
- D25 44. The IRSC liaised with the Association of Chief Police Officers (Terrorism and Allied Matters) (ACPO TAM) IT Team to rebuild a computer system capable of running Instance C from the MPS fact-finding exercise. The date of this capture from the NSBIS legacy database was 7 March 2014, the closest to the date of the original 2013 subject access request by Baroness Jones. This was built and reviewed by the IRSC to assess whether Baroness Jones was provided with everything that she was entitled to at the time of that request and to ascertain whether the information identified in Baroness Jones 2013 SAR was still present in the March 2014 instance.
- D25 45. Below is a table of the search terms used by the IRSC when exploiting instance C of NSBIS and the number of positive hits, including those which were not identified by Witness A8 when responding to the SAR requests:

<u>Search term used</u>	<u>Total hits related to Baroness Jones</u>	<u>Newly discovered hits not produced by Witness A8 for the SAR requests in 2013 and 2015</u>
Jenny Jones	39	6

J Jones	0	0
Jennifer Jones	4	4
Jones & Green Party	25	5 – however these were picked up in a previous search term
Jenny Jones & MP	6	2 – however these were picked up in a previous search term
Jenny Jones & Green Party	25	5 – however these were picked up in a previous search term
Jenny Jones & MPA	3	0
Jenny Jones & GLA	7	1 – however this was picked up in a previous search term
Jenny Jones & London	36	1 – however this was picked up in a previous search term
Baroness & Jones	3	2 – however these were picked up in a previous search term
Jennie Jones	0	0
Jenifer	0	0
Jennie & MP	0	0
Jenny & MP	0	0
Jennifer	Not analysed due to return of 888 hits in total. Tighter search terms would have	

	encompassed any relevant hits.	
Jennifer Helen Jones	0	0
{telephone number redacted}	1	1 – however this was picked up in a previous search term
{telephone number redacted}	0	0
{address redacted}	0	0
{DOB redacted}	0	0

D25 46. As with the searches completed by Police Staff A8, this search would also have returned a large number of duplications due to the more specific search terms such as 'Jenny Jones & MP' also being encompassed within the 'Jenny Jones' search.

D25 47. This table shows that there were ten newly discovered hits on the system, thus potentially showing further information had been held on Baroness Jones but not included in her 2013 SAR. On review, two of these documents appeared twice each in the search results, although each copy had been given a different serial number. This meant there were only eight unique items. These additional hits were as follows:

1. A Jenny Jones with the same mobile number as Baroness Jones appeared on the handset of another subject. This was established as Baroness Jones by cross referencing the phone number provided in her 2013 and 2015 SAR application forms.
2. An email reproduced within a larger document reported there was going to be a demonstration entitled 'Remembering Fallujah, Resisting Occupation, Join Member of Public 1, Member of public 2 and Member of Public 3 for the first mass act of civil disobedience against the occupation of Iraq since the invasion. {redacted}'. Open source research carried out on 25/07/2016 by the IRSC

identified Member of Public 3 as a guest speaker but there was nothing noted on open source regarding Baroness Jones attending.

3. A daily Olympic intelligence summary dated 09/08/2012. Information had been obtained from the Huffingtonpost.co.uk website quoting Baroness Jones on the ethical concerns around the Olympics and the effect on the local community.
4. A document referring to a 'secret' source, but providing no further details on what or who this source is, regarding another individual who had written a book. Baroness Jones was not directly referenced in this report, however, a linked reference number contained a hyperlink to another record which did feature Baroness Jones – this second record was one of the previously identified relevant documents.
5. A daily Olympic intelligence summary dated 23/07/2012. The 'Inter-press' news agency website had published an article containing Baroness Jones's comments on the careful choice of Olympic sponsors to reflect the ethos of a healthier lifestyle.
6. Meeting minutes from the 'Working Group of the Climate Camp', dated July 2007. Baroness Jones was named as a point of contact for policing and council issues.
7. Two copies of the same report (with separate reference numbers) regarding a {redacted} in London on {redacted}. 'Jennifer Jones' was listed as attending and the report detailed that the identification of subjects was made through open source videos available on the internet. The images themselves were not on NSBIS and it could not be verified whether this report related to Baroness Jones or another Jenny/Jennifer Jones.
8. Two copies of the same report (with separate reference numbers) containing details of a 'Jennifer Jones' attending a {redacted} and being observed at the event by a police spotter. There was insufficient detail to say whether this was Baroness Jones or another Jenny/Jennifer Jones.

D25 48. On analysis, the IRSC stated they considered that each of these items had features which may have classed them as exempt from a SAR request.

49. *Further enquiries*

- S3 50. As part of the investigation into this matter, the IOPC has worked with the MPS Operation Elter team, who are responsible for preserving and cataloguing material from the NDEDIU on behalf of the National Police Chief's Council.
- S3 51. As part of Operation's Elter's work, they have been collecting material from the NDEDIU offices and adding these to searchable catalogue, known as AdLab.
- S3 52. In December 2015, a number of data cartridges, believed to contain backup copies of the NDEDIU's NSBIS installation and files from NDEDIU computers were recovered by Operation Elter. These drives were undated. These were added to the AdLaB catalogue, although this did not occur until 2018.
- S3, S4 53. In April 2018, Operation Elter ran a search for the term "Jenny Jones" and a number of variations on the updated AdLab database, which now included these back-up tapes. This identified more than 800 items as possibly relevant.
- S4 54. In July 2018, the IOPC was informed that this search had taken place and requested Operation Elter prepare a schedule listing the results. This was provided to the IOPC in September 2018. On review, it was decided that the schedule was not sufficient to determine which items were relevant to the investigation, so it was determined that all of the items found would need to be reviewed by an IOPC analyst.
- D59 55. In October 2018, an IOPC analyst conducted an initial review on the results of this search. By this point, Operation Elter had been able to reduce the list of unique search results to 341 by excluding items that were clear duplicates. On examination, and with reference to Baroness Jones's name, title, date of birth and occupation the analyst identified 46 "items" (consisting of document, intelligence reports or similar) as relevant to Baroness Jones. Of the remainder, the majority of these were either duplicates or clearly referred to a different Jenny Jones. Seven of the items on the list could not be opened, so it was not possible to determine if they were relevant to Baroness Jones or not.
56. As the data drives recovered by Elter were undated, it has not been possible to identify when these backups were made. None of the items identified, however, postdate August 2012.

- D60 57. In addition to these items, 60 different versions of the same spreadsheet – initially entitled “Nominals” but renamed “NDEDU Nominals” in later versions – were found as part of the batch of material. The different versions of this document were created between 18 July 2008 and 13 August 2012, with a new version being created on an approximately monthly basis.
- D60, S3 58. This spreadsheet, apparently a list of nominals held by the NDEDIU, was examined by the IOPC and submitted for further analysis by Operation Elter. This identified that, starting on 18 July 2008, the list of nominals on these spreadsheets included a single entry for a “Jenny Jones” with no title, middle name, address or date of birth listed.
- S3 59. On 20 May 2009, a second “Jenny Jones” was added to the nominal list, again with no further personal information. Both Jenny Jones entries continued to appear on all versions of the document until 10 February 2011, when one of them (it is not possible to say which) was removed. The remaining versions of this spreadsheet, continuing until 13 August 2012, contain only a single entry for “Jenny Jones.”

Analysis

60. The evidence above shows that information relating to Baroness Jones was retained on the NDEDIU installation of NSBIS.
61. In response to her SAR submitted in June 2013, Baroness Jones was informed on 9 August 2013 that there had been five hits recorded on NSBIS relevant and disclosable to her.
62. In response to her SAR request of August 2015, a single additional record was disclosed to Baroness Jones.
63. During their review of the legacy copy of the NSBIS database of 7 March 2014, the IRSC identified a further eight unique items which had not been disclosed to Baroness Jones at the time of her 2013 SAR. For each of these, the ISRC considered there were features of these items that could have exempted them from the SAR. It is self-evident that these entries had not been deleted; the terms of reference for this investigation

concern the improper destruction or deletion of data to frustrate the SAR, not whether exemptions were properly applied which would be a matter for the ICO.

64. Analysis of the backup drives located by Operation Herne have identified that they contain as many as 46 items that appear to relate to Baroness Jones. These 46 items appear to include at least numbers 2, 3, 5, 6, 7 and 8 from the ISRC's list.
65. It should be noted that the backups drives recovered by Operation Elter are undated and contain material from NSBIS as well as other computers in the NDEDIU office. On this basis, it is not possible to say for certain when they were made and whether they pre or post-date either Baroness Jones SAR of June 2013 or the NSBIS database version examined by the IRSC. On this basis, then, it is not possible to say whether these items were on the NSBIS database at the time of Baroness Jones request or whether they had been marked for removal.
66. In addition to the items listed above, a single entry for a Jenny Jones, with no other biographical information, appears on a series of spreadsheets that appear to be a nominals list held by the NDEDIU. For a period of approximately twenty months, a second entry similarly lacking in information as also added to the list, before reverting to a single entry once again.
67. As above many of the hits for the search terms clearly referred to someone who was not Baroness Jenny Jones. As there is no other information available, there is insufficient evidence to say if this entry in the nominal list relates to Baroness Jones or may relate to some other person with the same or similar name.

> Why information was obtained and held on Baroness Jenny Jones

Evidence

- D48
68. In domestic law, the power of police to retain data is controlled by the Data Protection Act (DPA) 1998 and by a mandatory Code of Practice and accompanying Guidance issued under the Police Act 1995. Individuals also have a right to respect for their private lives under Article 8 of the European Convention on Human Rights (ECHR).

- D48 69. The Code of Practice limits the handling of police information to ‘police purposes’, limits the circumstances under which data can be shared between police forces, and requires that information originally recorded for police purposes must be reviewed for deletion at prescribed intervals. The guidance states that the object of such reviews is to ensure that there is a continuing policing purpose for holding the record, the record is accurate, up to date and not excessive, the DPA has been complied with, and the assessment of the risk level presented by the data subject is correct.
- D48 70. The case of ‘R (on the application of Catt) (AP) (Respondent) v Commissioner of Police of the Metropolis and another (Appellants)’ is in regard to information held on Mr Catt which was stored on a database established by the National Public Order Intelligence Unit (NPOIU) (later becoming the NDEDIU). The Commander of the NPOIU explained to the Supreme Court that the main function of the NPOIU was to gather, evaluate, analyse, develop and disseminate intelligence in relation to domestic extremism and single issue campaigning where a substantial threat of criminal activities or public disorder arises.
- D48 71. The Supreme Court found that the interference with Mr Catt’s private life had been minor. In particular the information was not intimate or sensitive and the primary facts recorded were already in the public domain. The Supreme Court noted that the longer-term consequences of restricting the availability of this method of intelligence-gathering to the police would be potentially very serious. The European Court of Human Rights agreed that gathering of the intelligence in that case was compatible with the convention but that its retention had not been. It should be noted that the court’s reasoning included that he had publicly aligned himself with a violent protest group.
- R1C 72. The information held on Baroness Jones and supplied to her as part of her 2013 SAR, ranged from being identified as a speaker at a protest against the growing of a genetically modified wheat crop in an open field to tweeting about attending a Critical Mass Vigil. These items have been viewed by the investigation team.
73. Of the eight additional items identified by the ISRC:

- items one and four do appear to be the result of focussed intelligence gathering, but primarily relate to other persons and reference Baroness Jones only by association or in passing;
- item two is an email advertising a public event at which she would appear;
- items three and five are intelligence circulations relating to the Olympic Park which make reference to relevant comment by Baroness Jones in the media;
- item six is the minutes of an organisation’s meeting in which Baroness Jones is listed as a point of contact;
- items seven and eight refer to a “{redacted}” being identified by police spotters at public events and identified with reference to images. It is not clear if this is or is not Baroness Jones.

R3,
R4 74. In December 2018, the 46 items identified as apparently relevant to Baroness Jones from Operation Elter’s back up drives were examined by IOPC investigators for any indication that these were the result of targeted surveillance or information gathering around Baroness Jones.

R3,
R4 75. The investigators concluded that none of the items gave a clear indication of such activities, being predominantly copies of publicly available information such as media report or newsletters, or being items relating to some other person or issue in which Baroness Jones is mentioned only in passing. In some cases, it was unclear whether the “{redacted}” being referred to was Baroness Jones or some other person.

76. During the ISRC review, they examined instance C of NSBIS from March 2014, which showed 38 nominal records with the surname Jones. None of these, however, appeared to be Baroness Jenny Jones and there is no evidence to suggest that Baroness Jones had her own nominal at this time.

77. As noted above, the backup version of NSBIS located by Operation Elter does include a series of spreadsheets entitled Nominal Lists or similar which do include either one or two “{redacted}” entries. Again, there is insufficient evidence to say if this was Baroness Jones. The information that was held about her did not support she was a nominal/subject of interest in her own right.

Analysis

78. It was the remit of the NDEDIU to receive intelligence from local forces and to analyse and disseminate domestic extremism related intelligence.
79. As the NDEDIU's own system and the one over which they had some measure of control, this investigation has focussed on the NSBIS database and will not be examining what material may have been held on local force systems, such as the MPS CRIMINT. The results noted above, however, do suggest that information was held on those systems during at least some of the period under examination.
80. As per 'R (Catt) v Commissioner of Police of the Metropolis'³, the retention of information that was not intimate or sensitive and where the primary facts recorded were already in the public domain, was judged by the Supreme Court to amount to only a minor interference in a person's private life. The Supreme Court further stated that the consequences of restricting the availability of this method of open source intelligence gathering to the police would be potentially very serious. However the applicant in that case had publicly aligned himself with a violent protest group, which is not suggested in the case of Baroness Jones. The European Court of Human Rights⁴ agreed that the collection of the data in that case had been compatible with the convention but its retention had not.
81. None of the items examined in this investigation show evidence of direct targeting of Baroness Jones by the NDEDIU. Instead, the majority of the items refer to Baroness Jones's public activities in her capacity as a Member of Parliament⁷, Deputy Mayor for London and a Green Party Member. Where they do refer to non-public information, Baroness Jones is not the primary focus and is mentioned only in passing.
82. Two "{redacted}" entries with no other biographical details do appear on a list of nominals recovered from the NDEDIU systems. There is insufficient evidence to support that these relate to Baroness Jones and the nature of the evidence that was held about her does not support that she was a nominal.

³ [2015] UKSC 9

⁴ Catt v United Kingdom (43514/15)

⁷ Member of the House of Lords

83. The terms of reference for the investigation concerned the improper deletion/destruction of material concerning Baroness Jones to frustrate the SAR, the Undercover Policing Inquiry or to “cover up” improper collection of information about her. As above no evidence has been found to support this.
84. Neither the subjects of this investigation nor anyone at any of the police services involved have presented any legitimate policing purpose for the deliberate collection of evidence about Baroness Jones. Furthermore, the nature of the material referring to her does not on ~~its face~~⁴ appear be relevant to the current definition of domestic extremism. Rather, the evidence suggests that the material retained about her on the NSBNIS database was “collateral” to intelligence gathering about other parties.
85. While it may be inevitable that ‘collateral’ personal data is obtained when carrying out legitimate intelligence gathering, data protection legislation requires clear retention policies. It appears now, considering the EHCR decision on Catt, that data retention policies in relation to NSBIS may have been incompatible with the right to a private life and that material gathered collaterally should not have remained on the NSBIS system.
86. The adequacy of the data retention policies for NSBIS are not in the terms of reference for this investigation, and in any event would not be a matter for the IOPC, which is primarily concerned with individual conduct by police officers and staff. However, it is to be expected that data retention policies for NSBIS, in particular, will be reviewed in the light of the ECHR decision.

Whether any permanent destruction of material relating to Baroness Jones took place. -

Evidence

87. On 10 July 2014, Officer India contacted MPS Directorate of Professional Standards (DPS) using the 'Right Line', which is an internal whistleblowing system.
- D6 88. Officer India alleged that on 18 June 2014, he witnessed electronic and paper files relating to Baroness Jenny Jones being inappropriately deleted on the instruction of

⁴ replace with “the face of it”

89. Officer Alpha following an FOIA (Freedom of Information Access) request by Baroness Jones.

D44
R1 90. Officer India provided a statement to the MPS and outlined the events as he witnessed them. Officer India explained that on 18 June 2014, he witnessed Officer Juliet with a *'pile of paperwork on his desk which was about 5" high on his desk. The top one was a 5 x 5 intelligence report.'*

D44
R1 91. Following this, he recalled a conversation between Officer Alpha, Officer Juliet and Officer Golf outside Officer Alpha's office approximately 15 feet away from where Officer India was sitting. Officer India said he witnessed Officer Golf take the pile of papers from Officer Juliet's desk and they all looked at them, Officer Golf then took the papers to his office and Officer Juliet returned to his desk.

D44
R1 92. A couple of minutes later, he witnessed the three of them reconvene outside the office of Officer Alpha and heard Officer Alpha say to Officer Juliet *'something like "make sure they're all deleted"'*. Officer India said he heard this *'clearly'*. Officer India then outlined in his statement that:

'they had mentioned the name Jenny Jones and from what they had said I knew the reports were all intelligence about her. From what [Officer Alpha] said, I understood it to mean that [Officer Juliet] was to delete all of the computer intelligence reports held on Jenny Jones as the MPS had received an FOIA request from her.'

D44
R1 93. Officer India then witnessed Officer Golf give the pile of papers back to Officer Juliet who immediately took them to the shredder and destroyed them. The three officers then reconvened outside the office of Officer Alpha, however, Officer India could no longer hear what was being said. Officer Juliet returned to his desk shortly after.

D44
R1 94. Officer India went on to allege that Officer Juliet had a conversation with Officer Alpha and Officer Golf during which Officer Juliet said *'he was having trouble deleting the first one'* Officer India stated from this comment he *'took it that he was now trying to delete the files about Jenny Jones that he'd previously shredded'*. Officer Alpha replied to Officer Juliet something like *'it's important that they go'*.

- D44
R1 95. Officer Juliet then rang Officer A1 from his phone and had a short conversation. Officer Juliet informed Officer Alpha and Officer Golf following this conversation that Officer A1 had *'already deleted them. He was asked to do so by Officer Bravo.'*
- D44
R1 96. Following this, the three officers again met outside Officer Alpha's office and *'they all raised a fist and said 'yes' in a jubilant way, like they had a success in deleting all the files'*.
97. The allegations made by Officer India were subject to a fact-finding exercise completed by the MPS between July 2014 and June 2015. The actions and decisions of those involved in this have also been investigated as part of this IOPC investigation.
- D6
D52
S2 98. As part of the MPS fact-finding exercise into this matter, a download of the NDEDIU NSBIS database was obtained. Between September and October 2014, Greater Manchester Police (GMP), the only other force outside of the MPS who had the capability to analyse this type of database, examined the NDEDIU NSBIS audit records for this period. Officer A12 produced a report of the findings. While these were not definitive, they did include details of each officers' NSBIS usages around the time of the alleged destruction of material.
- Officer Alpha had access to the system but did not use it during this period.
 - Officer Juliet had 77 entries on the audit log for June 2014 (6 for 18 June 2014) and 42 entries for July 2014.
 - Officer A1 had 21804 entries in May 2014 but none for June and July 2014.
 - Officer Golf had no trace of any activity in June 2014.
- D52 99. Each entry is a line on the audit log (referred to as T Audit Log) and captures an action, for instance logging on or searching on the database.
- D6
D47
S2 100. Between January and March 2015, Officer A12 liaised with the IT department of ACPO TAM, who conducted further checks on the T Audit log for each of the three retained instances of the NDEDIU NSBIS database, dated March 2014, March 2015 and September 2015³. This was to establish whether the officers involved had read or removed any data relating to someone with the surname 'Jones' and a forename

beginning with 'Jen-' (this would encompass any full name for instance Jenny or Jennifer). From these checks there was no record of any of the officers involved deleting or reading any record relating to Baroness Jones.

- D43 101. It should be noted, however, that as per the details of NSBIS published by the UCPI, that the T Audit Logs do not represent a perfect record of all activities on the system. Of particular concern, for example, is that deleting a record entirely would not only remove it from the NSBIS database but also from the audit log.
- D43 D47 102. There is however, an exception to this. Where a nominal record existed in NSBIS, a small amount of data (name and date disposed of for instance) would be retained in the log for the purposes of Freedom of Information requests.
- D54 S1 103. The MPS fact finding in relation to Officer India allegation was led by Officer A10. During this process, Officer A10 spoke with Police Staff Papa, an analyst within the NDEDIU, who explained that regular deletion of records from the NDEDIU took place to ensure the database was compliant and proportionate and that this would not have happened as the result of a SAR request. Police Staff Papa did suggest, however, that in line with this, Officer Alpha or Officer Bravo may have been prompted to review records relating to Baroness Jones for possible future deletion after their meeting with her.
104. It is notable that on the same day as the incident Officer India says he witnessed, 18 June 2014, Officer Alpha sent his email to Officer A6 saying that he had personally reviewed any references to Baroness Jones on the NDEDIU database.
- D54 105. In the conclusion of the report on his fact finding mission, Officer A10 noted that the regular review and destruction of files was part of any responsible data handler's role. On this occasion, Officer A10 considered that he could not find evidence of any intentional destruction of material related to Baroness Jones, either electronic or paper, and was of the opinion that normal unrelated operations of the office may have been misinterpreted, giving rise to the allegation.
- D46 106. In a letter dated 17 December 2015, Officer India wrote to Baroness Jones and informed her of the events he recorded in his statement to the MPS. He stated:

'I saw three officers engaged in physically destroying a number of police records by shredding. I believe all of these records related to you. There were in excess of 30 reports. One of these officers began to attempt to electronically delete a number of police records from a police database. Again, I believe these records related to you.'

D53 107. On 7 January 2016, the Guardian Newspaper published this story with the headline *'Officer claims Met police improperly destroyed files on Green party peer'* and the subtitle *'Whistleblower Officer India alleges their unit got rid of records to prevent Jenny Jones from discovering extent of its monitoring of her political activities'*.

R1C
D25 108. As part of the investigation, the IOPC reviewed the CRIMINT and the Legacy NSBIS databases. These showed that all 17 pieces of information Baroness Jones was provided with as part of her 2013 SAR - five records from NSBIS and twelve from CRIMINT - were still present. The eight additional items identified by the IRSC as being possibly relevant to Baroness Jones have also been confirmed as still present.

D12 109. At the time of the alleged destruction of material, a policy was in place within the NDEDIU which governed the review of nominal linked documents and was titled *'Information Management Cycle Guidance and Policy'*. This policy had been put in place alongside the new "live" NSBIS version and appears to address some of the issues with the previous legacy versions of NSBIS such as the retention of large volumes of irrelevant data. This policy set out guidance on the *'Review, Retention and Disposal (RRD) process as well as raising awareness of the necessity to manage police information lawfully'*. The policy specifically provided the following information regarding RRD:

'Review

To examine a personal record and all associated records, to ensure:

- *There is a continuing policing purpose for holding a record;*
- *The record is adequate, up to date and & not excessive;*
- *That all personal records comply with the principles of the Data Protection Act 1998 (DPA);*

- *The assessment as to the level of risk the person is perceived to present is correct.*

Retention

The continued storage of and controlled access to information held for a policing purpose which has been justified through the evaluation and review process.

Disposal

The removal of information, from all police systems, to the extent, that the information cannot be restored. It must be justified through the evaluation and review process.

- D50 110. A command circulation had also been distributed on 12 May 2014, to all SO15 employees informing them that no files or records which could be relevant to the upcoming undercover policing public inquiry should be deleted. It was as follows:
- ‘Officers and staff will have seen recent reporting about Operation Herne and the Ellison report to the Home Secretary about the Lawrence Enquiry and the unrelated allegations of Police Corruption. The Home Secretary has announced that a Public Inquiry is to be held to investigate undercover policing and the operation of the SDS. She also announced a review of successful prosecutions where investigations involved undercover officers. A criticism aimed at the MPS by Ellison was that files had been destroyed or deleted and that this had obstructed the Inquiry by Mr Ellison QC.*

We are now aware of a public enquiry and review being on the horizon. In order to ensure that this Command can be shown to be supporting these enquiries and to ensure complete transparency, this Command will adopt a positive information retention strategy concerning these issues.

We need to ensure that we do not delete any files or records which could be relevant to these matters. Until we have any guidance to the contrary, the following directions are given as a holding policy:

- *No member of this Command or Digital Policing, should delete from any SO15 Information system any registered files, records or electronic information of possible relevance to these matters (paper, electronic or other) without the authority of Officer A11.*
- *No member of this Command or Digital Policing, should delete from any corporate system any SO15/ SO13/ SO12 related material of possible relevance to these matters from any other information system, any registered files, records or information (paper, electronic or other) without the authority of [Officer A14].*

This direction will be reviewed in three months time.

Officer A11'

Accounts provided by the officers under investigation

Officer Alpha

- D19 111. Officer Alpha was interviewed under caution, however, he answered '*no comment*' to all questions put to him.

Officer Bravo

- D26
D41 112. Officer Bravo was interviewed under caution, where he provided a pre-prepared statement.

- D41 113. In relation to the allegations against him, Officer Bravo stated:

'a. The letter from Bindmans LLP does not name me specifically and refers to the NPIOU which was disbanded years ago.

b. The only reference to me in the documents I have been provided with is in the summary of the witness statement of Officer India. This document notes that Officer Juliet told Officer Alpha and Officer Golf that Officer A1 had already deleted records as he had been asked to by me. I have no knowledge of this nor to what it refers and I have not been provided with any documents to assist my recollection.

c. The NDEDIU was not an MPS or S015 Unit. We only used the MPS system under the Home Force agreement. We were a national unit and the system we used, which was the National Special Branch Intelligence System, was not an MPS system but a national one.

d. We did not own intelligence. We never created intelligence. We were merely a national recipient of it.

e. It is important to note that a Command Circulation is not an Order. It is a way in which to share information. In any event, the Command Circulation would not have applied to the NDEDIU. Any destruction of material, should this have happened, would therefore not have been in contravention of this document.

f. I understand that all the relevant intelligence relating to Undercover Policing was given to Operation Hearn years before I arrived on the Unit.

g. As {redacted}, I was not aware of any other material in the Unit.

h. Even if material had been lawfully deleted under the Management of Police Information policy by the Unit, it would still be in existence and retrievable elsewhere or on the legacy database that had been given to Operation Hearn.

i. It was my understanding that Baroness Jones was never the subject of the Undercover Policing Inquiry and she was informed of this by Member of Public 4.

j. I recall that I did attend a meeting with Baroness Jones in around June 2014. I attended with Officer Alpha at the request of {redacted}. We attended the meeting and explained to Baroness Jones the purpose of the NDEDIU and the work it undertook. We tried to provide her with some reassurance that she was not a subject of interest. The meeting was relatively informal and I believed it was a productive meeting.

k. I cannot recall any other personal dealings with Baroness Jones.'

114. Officer Bravo denied both the allegation of Misconduct in a Public Office and of any breach of the standards of professional behaviour.

Officer Golf

D27 115. A written response was received from Officer Golf where he denied the version of events put forward by Officer India. Officer Golf stated the following:

'I do remember a conversation with Officer Alpha but where that took place is not something I can specifically recall. My recollection is that that Officer Bravo and Officer Alpha, had been to see Jenny Jones at the House of Lords, as a result of concerns that she had already raised with the MPS, either in relation to information held about her, or the destruction of information about her.'

'It is obviously impossible for me to dispute whether or not Officer India overheard any conversation between myself, Officer Alpha, and Officer Juliet, but I do remember that they spoke about going to meet Jenny Jones about the situation in relation to information or data held on her as a result of a Freedom of Information request that she had made. This was the first I knew of it. Officer Alpha said that he had explained to her that if she wanted to know what information the MPS had about her then she should write to the MPS. He said he had explained to her that the Unit was not part of the MPS. I think he did make a remark that she had said she was going to Australia in the near future to see {redacted} and she was embarrassed about the fact that she was flying all the way to Australia given her associations with the Green Party and they had laughed about this together. I should add that our office was quite noisy; the staff were noisy, we had no double glazing, the windows were metal framed and obviously outside was Victoria Street SW1, an exceptionally busy and noisy street.

I cannot remember anything else about the conversation and certainly do not recall or believe that Officer Alpha did or would have said anything like "make sure they are all deleted". I certainly never heard Officer Alpha request Officer Juliet to delete all the intelligence reports held on the system pertaining to Jenny Jones; in any event I was unaware whether there were any such reports.'

'I deny that I have contributed towards the permanent destruction of material in June 2014 concerning Baroness Jones. I deny that I did this to prevent her from obtaining material held on her or to cover up the improper obtaining or retention of personal data or to intentionally dispose of that material as it was relevant to the undercover policing Public Inquiry. I deny the commission of any criminal offence on my part, and the breach of any Standard of Professional Behaviour.'

Officer A1

D45 116. Officer A1 replied in writing to the allegations and stated that they he was not asked to delete any electronic files in order to permanently delete them. Officer A1 further addressed the allegations made by Officer India, stating:

'I have no specific recollection of any intelligence which I saw relating to Jenny Jones. She was a non-entity in intelligence terms and as far as I can recall, with most of the intelligence relating to her being open source and in relation to which she was usually a side issue.'

D45 117. Officer A1 outlined that it would not have been possible to delete any of the records as if they were held on the legacy database, they would have been deleted from the new database only and not the legacy one and therefore would still be able to be accessed.

Officer Juliet

D20
D28 118. A written response was received from Officer Juliet where he denied the version of events put forward by Officer India. Officer Juliet specifically stated:

'I have no clear recollection of a conversation between myself, Officer Alpha, and Officer Golf outside Officer Alpha's office on 18th June 2014. I cannot remember ever giving [Officer Golf] some papers and I have never heard Officer Alpha say words to the effect "make sure they are all deleted". Certainly, I have never heard him say that in relation specifically to papers that I knew or believed related to Baroness Jones. I have never been asked by Officer Alpha to delete all the intelligence reports held on the system pertaining to Jenny Jones as a result of the MPS receiving an FOI inquiry. Such a notion is absurd. If I was told that there had been an FOI inquiry by Baroness Jones then I would be absolutely aware that any material should be obtained for the purposes of

dealing with the request. If I was told to destroy that information, in my view it would have been an unlawful and inappropriate order and instruction, and I definitely would have challenged it and more particularly, I would still remember to this day being put in a position where I had to challenge such an instruction. I have never been given one.'

119. Officer Juliet also explained that he recalls '*quite a lot of shredding of documentation*' taking place in regards to the work done on the Commonwealth Games, for example, *draft briefing notes*. Officer Juliet also alluded to the clear desk policy and stated '*there was quite a strict adherence to a clear desk policy there would be nothing unusual about myself, and colleagues, quite often having to shred documents during or at the end of the day.*'

Analysis

120. Officer India has stated that the alleged destruction of documents relating to Baroness Jones took place on 18 June 2014 and that the conversation he overheard had referred to an FOIA request made by her. As a serving police officer with no known motive to lie, they should be treated as a credible witness.
121. Officer India detailed that the destruction of documents took place on 18 June 2014. Officer Alpha sent an email on 18 June 2014 for the attention of Officer A6 detailing that he had personally reviewed any references to Baroness Jones on the NDEDIU database and there was only one live record which may or may not have been Baroness Jones. This is supported by the account provided by Police Staff Papa, in that a review of material may have been initiated after Officer Alpha and Officer Bravo's meeting with Baroness Jones shortly before.
122. Officer Alpha stated in his email of 18 June 2014 that he personally reviewed the documents held on Baroness Jones. While there is no evidence of Officer Alpha accessing NSBIS himself during June 2014 under his own login, the audit results show that Officer Juliet had six traces of use on 18 June 2014. This evidence could be consistent with Officer Alpha reviewing material from the database, possibly printed out or collated by Officer Juliet.

123. The proximity of the meeting held with Baroness Jones and the account provided by Officer Golf also referring to the FOI (although in fact an SAR) being discussed does appear consistent with Officer India's evidence.

124. Officer India detailed in his statement that he only saw the top intelligence report of a pile approximately five inches high. He did not state that he saw the content of the intelligence report and only linked it to Baroness Jones when he heard her name mentioned during the conversation between Officer Alpha, Officer Golf and Officer Juliet.

125. It should also be noted that Officer India described hearing Baroness Jones's name mentioned, along with comments possibly relating to the removal of material, although they did not hear anyone specifically say it was material related to Baroness Jones that was being destroyed.

R1C 126. A check conducted during this investigation of the NSBIS legacy database and the MPS CRIMINT system identified that the material Baroness Jones received as part of her 2013 SAR and the further eight items identified by the IRSC were all still present. This corroborates the account provided by Officer A1 who outlined that any material held on Baroness Jones at this time should still be available on the legacy database.

127. Officer Alpha's email to Officer A6 noted that only one record possibly relevant to Baroness Jones appeared on the "live" database as of 18 June 2014. It is not known whether the material relating to Baroness Jones from the legacy database was ever migrated to the live database, and if so, whether it was subsequently removed from the live version. If, as Police Staff Papa suggested to Officer A10, a review of the information retained on NSBIS had been prompted by the meeting on 12 June with Baroness Jones, then any overheard conversation about deleting material may refer to deleting it from the live database in accordance with the policies that had been put in place.

128. There is no indication from the T-Audit tables that any nominal entry for Baroness Jones was deleted during this period, as no "stub" of basic information has been left behind. It

is not possible to say definitively from the T-Audit tables whether any other records relating to Baroness Jones were deleted, however.

- D6
D25
129. Baroness Jones has previously questioned the whereabouts of the records she received as part of her 2013 SAR that were not included in her 2015 SAR response. The IRSC noted during that at the time of Baroness Jones's 2015 SAR, the MPS had a policy in place which meant that they would not provide reports which had already been disclosed in prior requests. This does not appear to have been communicated to Baroness Jones at the time she raised this concern, however.
130. As noted above, there is no indication that any of the material provided in response to Baroness Jones's 2013 SAR was subsequently deleted from the legacy database. However it would have been consistent with the retention policy and the revised definition of domestic extremism to have removed some or all of the 'hits' from the live database.
131. As above there is some evidence which corroborates Officer India could have overheard a conversation about material held on Baroness Jones on 18 June 2014, including discussion about whether items should be deleted from NSBIS. Similarly, it is possible that the paper intelligence reports he saw may have related to Baroness Jones, in the form of printouts or similar for Officer Alpha's review.
132. There does not appear to be evidence, however, of a deliberate or intentional programme of deletion with the intention of frustrating either an FOI request or the UCPI. On the contrary, the proximity of the meeting with Baroness Jones, the email to Officer A6 and the details about the operation of the office put forward by Police Staff Papa appear to suggest that this was a legitimate review of what material had been brought over to the new live database, and that any removals or deletion were in line with the new information handling policy.

> **The intention of permanently destroying material relating to Baroness Jones**

133. Point c) and d) within the IOPC terms of reference sought to look at whether any permanent destruction relating to Baroness Jones took place for the following reasons:

- To prevent Baroness Jones from obtaining material in accordance with the Data Protection Act 1998.
- To cover up the improper obtaining and retention of personal data.
- With the intention of disposing of material relating to the Undercover Policing Inquiry.

134. Interrogation of the electronic systems and examination of the results by IRSC and the IOPC has not provided any evidence that references to Baroness Jones were permanently deleted, in that even if information was removed from the live database it remained on the legacy database.

135. There is no evidence from this analysis that Baroness Jones was a nominal or the focus of intelligence gathering by the NDEDIU. As noted above, all of the references appear to be either collateral or open source.

136. Analysis of all the references to Baroness Jones on the live and legacy NSBIS database did reveal 8 references which had not been disclosed to her during her previous SAR. The IRSC has suggested that this was due to them having features which made them exempt from this request, although they do not appear to be substantially different in content or in origin from those that were actually provided. Nothing about the contents of these documents gives any reason for their non-disclosure to have been an attempt to cover up improper obtaining and retention of material about Baroness Jones, and there is no evidence that any of these items were directly relevant to the undercover policing inquiry.

137. With that in mind, it is unclear exactly why these documents were not disclosed to Baroness Jones at the time of the request. Whether SAR exemptions were applied correctly, however, along with whether there were legally compliant personal data retention policies and whether these were applied properly would be matters for the ICO.

> The response of the MPS Directorate of Professional Standards officers to the allegation of documentation being destroyed within the NDEDIU

Evidence

D6
S2 138. Following the allegations made by Officer India via Right Line, the DPS began a covert fact-finding exercise which later became an overt operation.

139. A fact-finding exercise is used where it is not possible to make an immediate determination about what investigative procedures, if any, should take place. A fact-finding exercise should not go so far as to undermine the safeguards afforded to a police officer in a formal investigation.

140. The MPS fact-finding exercise was initially undertaken by Officer A12 under the operation name of YYCOLE. The initial strategy was to secure the NSBIS audit trail without appearing to focus on the NDEDIU. This was achieved by placing an audit on different locations, so as not to be seen to target any individual unit and possibly raise awareness of the investigation.

D6
S2 141. The results of this analysis by GMP are discussed earlier in this report.

D5
D6 Following the submission of a report by Officer A12, the DPS investigation changed from being covert to overt and was handed to Officer A10. This was deemed to be a fact-finding exercise and Officer A10 was tasked to establish if there was potentially any misconduct or criminal offences in relation to the allegation.

D5
D6
S1 142. Between March and June 2015 Officer A10 conducted several actions including:

- securing a statement of allegations from Officer India;
- speaking with Police Staff A7 to gain a general overview of the subject access provisions of the DPA including commenting on the SAR of Baroness Jones;
- visiting the NDEDIU to speak to all available staff, of which there were 15. He asked them the question of whether they had any information concerning the alleged deletion of data following or as a consequence of a FOIA request, and received negative responses from all;

- speaking further with Police Staff Papa, whose evidence is referred to earlier in this report;
- meeting with Officer Alpha, who denied having requested the deletion of data pertaining to Baroness Jones.

Analysis

143. On receipt of the allegations from Officer India, the DPS appear to have taken prompt action to secure the relevant data along with additional steps so as not alert any potential subjects of future investigation.
144. Once this information had been secured, there is evidence the MPS then initiated a complex and technically demanding joint operation involving GMP and ACPO IT teams to review the NSBIS data for evidence that might support the allegations.
145. Once the investigation reached its overt stage, the DPS can be seen to have taken steps to make a formal record of the allegation, to understand the processes around a SAR and to give staff members in the unit the opportunity to bring forward any concerns they had.
146. The Police Reform Act 2002 requires that where there is an indication of misconduct which may indicate the commission of an offence or of behaviour which justifies disciplinary proceedings, a conduct matter should be recorded and consideration given to whether it must be referred to the IOPC, so that consideration can be given to there being an independent investigation. On the basis of the information he disclosed, Officer India's complaint may have been sufficiently serious that the MPS would have been required to record it as a conduct matter and refer it. In the event, however, the MPS decided to undertake a fact finding investigation of its own.
147. An independent investigation of these allegations by the IOPC has now also taken place as a result of Officer India "whistle-blowing" and the complaint by Baroness Jones. The decision not record the initial whistleblowing as a conduct matter has not itself been the subject of a misconduct investigation, although should the Director General's delegate take the view that the MPS was remiss in not recording and referring the matter immediately they may wish to make learning recommendations for the MPS going forward.

> Criminal offences

148. On receipt of the report, the decision maker must decide if there is an indication that a criminal offence may have been committed by any person to whose conduct the investigation related.
149. If they decide that there is such an indication, they must decide whether it is appropriate to refer the matter to the CPS.
150. I have not identified any offences for the decision maker to consider.