

IN THE SUPREME COURT OF THE UNITED KINGDOM
On appeal from the Court of Appeal (Civil Division) C1/2012/1747

BETWEEN:

The Queen
(on the application of John Oldroyd Catt)

Respondent

v

The Association of Chief Police Officers of England, Wales and Northern Ireland
The Commissioner of Police of the Metropolis

Appellants

and

The Equality and Human Rights Commission
The Secretary of State for the Home Department

Interveners

Witness Statement of Baroness Jenny Jones

I, JENNY JONES, BARONESS JONES of Moulsecoomb, of 3 Cottage Green, London, SE5 7ST, will SAY AS FOLLOWS:

1. I make this witness statement in support of the application to intervene in this appeal, brought by the Network of Police Monitoring.
2. I am an elected representative of the people of London. I have been elected to the London Assembly as a London-wide member since the creation of the Assembly in 2000. I currently sit on the Economy Committee, the Environment Committee, and the Police and Crime Committee (of which I am a deputy chair). In 2012, I stood as a candidate for the Mayor of London for the Green Party and came third. I was the deputy Mayor of London between May 2003 and June 2004, and the first Green Party Councillor of the London Borough of Southwark. I am also a working peer in the House of Lords.
3. The purpose of this witness statement is to set out my understanding of the way in which the database held by the National Domestic Extremism and Disorder Intelligence Unit works and also to stress my views on the importance of my right to freedom of expression and to respect for my privacy and family rights.
4. This witness statement develops the previous witness statement that I have submitted in the Administrative Court (in *R (Netpol and Liana Etkind) v Commissioner of Police of the Metropolis and another*) and explains further facts set out in an exhibit to the witness statement of Mr Shamik Dutta, a solicitor who acts on behalf of the Respondent, Mr Catt, in this appeal.

A. The Database Entries About Me

5. This appeal relates to a database held within the National Domestic Extremism and Disorder Intelligence Unit ("the database"). I first became interested in the database following media reports about the case brought by Mr Catt in the Administrative Court.
6. I have sought to understand the extent to which personal information relating to me is recorded and retained in the database. I have no criminal convictions, so I could see no reasonable basis upon which the police should have collected information about me. However, media reports suggested that information about elected politicians was retained on the database so, on 27 June 2013, I paid £10, filled in a long form, and made a subject access request pursuant to the Data Protection Act 1998 to find out what the database held about me.
7. The results of my request are set out at Exhibit SD2, at pp.6-9. The so-called "*intelligence*" notes collected and retained on the database can be broadly grouped into three categories:
 - a. Notes of engagements I have spoken at in my capacity as an Assembly Member or as the Green Party mayoral candidate. For example, in January 2009, I attended the Progressive London conference and spoke on behalf of the Green Party. The database records that I attended the conference as a "*speaker*". I do not understand how it is relevant or necessary for the police to record this information about me;
 - b. Quotes by me taken from newspapers, online media, or social media postings, such as *Twitter*. For example, in June 2003, I was asked questions by the *Metro*, a free newspaper in London, about the ride in support of better opportunities for cyclists, Critical Mass. I said, "*If you've never been, then come along because this is a chance to ride in safety with hundreds of others*". Despite the fact that this quote is over 11 years old and also entirely anodyne, it is recorded and retained on the database. For the police to categorise this quote as "*intelligence*" is absurd;
 - c. Notes identifying me as attending marches, rallies, or Critical Mass rides. For example, the database identifies me as a speaker at a rally against Conservative Party cuts, on 19 February 2011, a speaker at a rally in support of the victims of police violence, on 23 May 2009, an attendee at the Stop the War march and rally on 15 October 2007, and as an attendee at the Critical Mass cycle ride meeting on 29 September 2006.
8. Each of these entries on the database relate to occasions when I was seeking to exercise my rights to freedom of expression and freedom of assembly as an elected representative. I did not consent to these entries being recorded about me.
9. I am, quite frankly, alarmed by the disclosure of these entries about me. I have no criminal record and can see no basis whatsoever for the police to identify me as a "*domestic extremist*" or to hold information about me on a database about "*extremists*". The collection and retention of information about me is an intrusion into my personal life which I do not consider appropriate.
10. I cannot see how the collection and retention of this information about me, and others like me, is a good use of police resources. If the police must record and retain

information about individuals on a database of "*domestic extremists*", then it should be focussed on those individuals who pose a threat of serious harm and carry out serious criminal acts; not on people who have never committed a crime and simply seek to exercise their fundamental rights to express themselves and to meet with others who share their views.

B. My Attempts to Scrutinise the Database

11. In my role as deputy chair of the Police and Crime Committee, and as an elected member of the London Assembly, I have sought to scrutinise the database through questions posed to the Mayor of London and the Commissioner of Police of the Metropolis. Many of my questions and the answers given to them are set out in the exhibit to the witness statement submitted by Mr Shamik Dutta (Exhibit SD2, at pp.1-62). In his statement, Mr Dutta includes a substantial amount of information about me and refers to a variety of different letters and questions I have sent and submitted to different representative individuals and public bodies about the database. I do not repeat any of this information again, save as to add two points.
12. Firstly, the impression that I have gained through asking these questions is that those responsible for the maintenance of the database do not fully understand its parameters. For example, there appears to be confusion as to the definition of the term, "*domestic extremist*" (compare Exhibit SD2, at pp.11, 14, 15, and 50). If those responsible for the database do not understand how it works or to whom it applies, then I cannot see how members of the public can be expected to have faith in any legal safeguards that are said to be in place.
13. Secondly, at the September meeting of the Mayor of London's question time event, I asked the Mayor to confirm how many intelligence records are retained on the database. The purpose of this question was to try and get a sense of the scope of the database. The Mayor answered as follows:

"A nominal record holds data that may indicate a person (nominal) is of interest to the NDEDIU for a policing purpose.

"An intelligence record may also hold information about for example, an event, a threat, an area, interest or an organisation etc.

"The number of intelligence records fluctuates. To provide the context alongside this data is likely to reveal operational tactics and may put operations or the public at risk."

14. I am concerned that the Mayor is unable to provide a clear answer as to the number of intelligence records held on the database.

C. Journalists

15. In public meetings, the Commissioner of Police of the Metropolis has also been asked a number of questions about whether the police records and retains information relating to journalists. In a hearing of the House of Commons Home Affairs committee on 11 November 2014, the Commissioner said that the police do not routinely hold information relating to journalists on the database.

16. However, I am also aware that a journalist at *The Times* has sought information, pursuant to the Freedom of Information Act 2000, as to how many records on the database relate to journalists and photo-journalists. The reply to that request makes it clear that there are over 2,000 references to journalists or photo-journalists on the database. A copy of *The Times* article is attached to this witness statement as part of Exhibit JJ1.

D. Freedom of Expression and Assembly

17. I am not the only elected representative whose personal information is retained on the database. I understand that another Green Party representative has also provided evidence to the Court in support of this intervention. I also understand that the database also holds a large amount of information relating to those who attend public protests and demonstrations more widely.

18. This causes me real concern. It is my view that the database fundamentally damages the right to freedom of expression and freedom of assembly. These rights are inter-dependent but their protection and promotion are fundamental requirements of a truly democratic society. To quote from a recent worldwide review of the right to protest [https://www.aclu.org/files/assets/global_protest_suppression_report_inclo.pdf], "*the freedom of expression should be viewed as the grievance system of democracies and the right to protest and peaceful assembly is democracy's megaphone. It is the tool of the poor and the marginalised, those who do not have access to the levers of power and influence and those who need to take to the streets to make their voices heard.*"

19. The existence of the database clearly undermines these crucial fundamental and political rights. The extent of the chilling effect that this database causes is hard to accurately measure and evidence, but it must cause people to pause, or even worse, decide not to exercise their right to dissent and criticise. Those who attend meetings, marches, and demonstrations are much less likely to do so if they know that personal information about them will be retained on a secret police database.

20. As a Member of Parliament, part of the legislature in this country, this causes me real concern and it is for this reason I decided I had no option but to try and take whatever steps were available to me to challenge the ongoing operation of the database.

The contents of this statement are true.

Signed:

Dated:

The Times: Media News

Jules Mattsson

Published at 12:01AM, November 11 2014

Scotland Yard has more than 2,000 records relating to journalists and photographers on a confidential national anti-extremist database.

The national domestic extremism and disorder intelligence unit is run by the Metropolitan police, part of the SO15 counterterrorism command. The records are held on the unit's special branch intelligence system, codenamed "Fairway", which holds information on individuals, groups and events.

After a freedom of information request by The Times, police searched the database for the keywords "reporter", "journalist", "photojournalist" and "photographer". The force declined to provide the exact numbers for each keyword or the precise total but stated that a combination of those searches revealed more than 2,000 records.

The disclosure comes as Sir Bernard Hogan-Howe, the Met commissioner, prepares to be questioned today by the home affairs select committee about snooping powers.

Bob Satchwell, of the Society of Editors, called the retention of files on journalists "outrageous". He said: "Politicians who profess their concern for freedom of expression and the freedom of the media need to take urgent steps to control the police and remind them of their responsibilities under the law."

The police said it would be wrong to suggest each of the entries was about an individual journalist or photographer, saying many entries are "part of a wider record to accurately describe an event" such as recording who is present.

The number of entries does not equate to information on 2,000 people. One file held about the comedian and journalist Mark Thomas contains more than 60 entries. Thomas is a left-wing activist and previously won damages from police after he was searched at a demonstration in 2007. He described his file as "wonderfully odd in an Ealing Comedy meets the Stasi sort of way" in an article for the National Union of Journalists, calling for other members to "help fight police monitoring".

The discovery that thousands of database entries relate to reporters and photographers comes at a time of intense scrutiny over how police forces have made use of surveillance powers to spy on journalists and their sources.

Last month The Times disclosed how officers investigating the Chris Huhne speeding points scandal secretly obtained phone records of a journalist and source using the Regulation of Investigatory Powers Act, despite a judge ruling that the source could remain confidential. The surveillance watchdog, the Interception of Communications Commissioner, was last week handed a petition organised by Press Gazette, journalism's trade magazine, with 1,250 signatures against the practice.

The police department that maintains the database is split into two teams; one for protest and disorder and the other for domestic extremism.

A Metropolitan Police spokeswoman said: "Records are managed according to the management of police information statutory code of practice, which provides a clear framework for the collation and retention of information for policing purposes."

IN THE QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

BETWEEN:

(1) Netpol
(2) Lianna Etkind

Claimant

and

(1) Metropolitan Police
(2) Secretary of State for the Home Office

Defendant

WITNESS STATEMENT OF JENNY JONES

I, JENNY JONES, Baroness Jones of Moulsecoomb, of 3 Cottage Green, London, SE5 7ST, will SAY AS FOLLOWS:

1. I write this statement in support of the Claimant's application for permission and to provide the court with evidence about how the Police's policy which they challenge has affected me personally.
2. I have been elected to the London Assembly as a London wide Member since its creation in 2000. I currently sit on the Economy Committee, Environment Committee and am Deputy Chair of the Police and Crime Committee.
3. I am also a working peer in the House of Lords.
4. I am an ex-archaeologist and former chair of the Green Party. I was elected as the first Green member of Southwark Council in 2006 and in 2012 I ran for Mayor of London for the Green Party and came third.
5. In the previous mayoral administration I was chair of London Food, the Mayor's road safety ambassador, and the Mayor's green transport adviser. I am also a former Deputy Mayor of London.
6. I was also a Member of the Metropolitan Police Authority (MPA) for eleven years from [2000 - 2012].
7. I first became interested in the database of the National Domestic Extremist Unit, now the National Domestic Extremism and Disorder Intelligence Unit, following media reports about the case of *John Catt*.

JS 19/12/13

8. I was interested to see if the police held any information about me and if so, what information they considered it appropriate to collect and store.
9. I have never been arrested by the police before so I could see no reasonable basis upon which the police should have collected information about me. However, there were media reports that elected politicians had records with the NDEDIU, so on 27 June 2013, I paid £10, filled in a long form, and made a Subject Access Request.
10. I received a response from the police on 13 August 2013, a copy of which is at pages X-X of the Claimant's application bundle.
11. The "intelligence" notes collected and retained by the police can broadly be grouped into three categories:
- notes of engagements I have spoken at in my capacity as an Assembly Member or as the Green Party mayoral candidate,
 - quotes by me taken from either newspapers, online media or things I have tweeted on Twitter and
 - notes identifying me as attending marches, rallies or Critical Mass rides.
12. I was alarmed by their disclosure. I have no criminal record and can see no basis whatsoever for the police to identify me as a "domestic extremist" or hold information about me on a database about "extremists". Indeed, all the information held by the police on my file related to work I had carried out in my role as an elected politician.
13. I cannot see how the collection and retention of this information about me, and others like me, is a good use of police resources.
14. The collection and retention of information about me is also clearly an intrusion into my personal life which I do not consider appropriate.
15. The police's policy around the database is clearly wrong. The definition the police use for 'domestic extremists' is faulty. Individuals who have never committed a crime, never been responsible for serious disorder, nor done anything wrong can be classified as a "domestic extremist" nonetheless and have information about them recorded and retained by the police.
16. This is unjustified. For example for the police to categorise a quote I gave to the Metro newspaper from 2003 about Critical Mass as "intelligence" is absurd. Similarly, I do not see how it is necessary or justified to record that I spoke at the Progressive London Conference in 2009.
17. If the MPS must record and retain information about individuals on a database of domestic extremists then it should be focused on those individuals who pose a threat of serious harm and carry out serious criminal acts and not people who have never committed a crime.

W 19/12/13

JJ-3335

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13 AUG 2013



**METROPOLITAN
POLICE**

Working together for a safer London

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Your ref:
Our ref: 201307000418

09/08/2013

Dear Ms Jones

DATA PROTECTION ACT 1998 - SUBJECT ACCESS

I refer to your application form in which you requested information under the above Act that may be held about you by the Metropolitan Police Service (MPS).

The Data Protection Act places an obligation on the MPS to provide you with a copy of that information, unless disclosing such data would be likely to prejudice the prevention and detection of crime and/or the apprehension or prosecution of offenders.

From the personal details supplied in your request, the Information the Commissioner is required to supply you with is enclosed.

You may wish to know that under the Act, the data supplied is held by the MPS under the 'Standard Police Notification' for the Purpose of Policing.

Any information held that can identify a third party, or that you are otherwise not entitled to, has been edited out.

Please note this letter cannot be used as a certificate of good character.

If you consider the information to be incorrect please write to the above address, stating your concerns clearly and concisely.

Yours sincerely

Michela Holmes
Privacy Advisor
Team Leader
For Data Protection Officer

There Is an Alternative
Protecting London, Opposing Tory Cuts
19th February 2011, 10am-5pm, Congress House, Great Russell Street London
Speakers Include
Jenny Jones

TRAFALGAR SQUARE 3PM Saturday 23rd MAY 2009 - march to Scotland Yard via DOWNING STREET -
Assemble 3PM at TRAFALGAR SQUARE
STOP OLICE VIOLENCE
Speakers:
Jenny Jones - Green Party member of the London Assembly

PROGRESSIVE LONDON CONFERENCE
Saturday 24/01/2009 1000 -1730 hours
Congress House ,
Great Russell Street,
LONDON,
WC1B
Speakers include: Jenny JONES - Green Party

15/10/2007
Event name Stop The War March and Rally
Subjects Identified -
Jenny JONES

On Monday 08/10/2007 THE BRING ALL THE TROOPS HOME RALLY. The following persons were in the Square..... Jenny JONES - LONDON ASSEMBLY Member

29/09/2006 CRITICAL MASS cycle ride meeting at WATERLOO BRIDGE.
The following subjects were identified:
Jenny Jones

The following article appeared on 20/01/2006 ICSOUTHLONDON website : THE Critical Mass cycle ride
..... GREEN PARTY ASSEMBLY MEMBER Jenny JONES was one who answered the call. She
said: ' Critical Mass has been going on for years. It's not a demonstration and it's not organised either. ' I've
been along before and I'm certainly going to the next one and the one after that. I'm really angry about this.'

Tue 6 September
Close down London's Arms Supermarket Public meeting opposing the DSEI Arms Fair. 7pm-9pm, West
Indian Cultural Centre, Clarendon Road, Wood Green, London N8. Speakers include Jenny Jones, Green
Party London Assembly Member

04/04/2004 CAMPAIGN AGAINST CRIMINALISING COMMUNITIES held a protest outside HMP
BELMARSH Speakers included: -Jenny Jones - Deputy Mayor of London

Rally in Trafalgar Square 11.00am Friday 9 April to give the marchers a big
send off!
Speakers include: Jenny Jones Deputy Mayor of London

Source: METRO NEWSPAPER 26/06/2003
Critical Mass - they're the spokespersons of a generation.....London Deputy Mayor Jenny Jones
is also encouraging, 'If you've never been, then come along because this is a chance to ride in safety with
hundreds of others.'

Stop the War - Peace and Justice for the Kurds
Thursday 22 November 2001, 1930hours
The Palms Room, University of London Union, Malet St, WC1
Speakers include:
Jenny JONES Green Group, London Assembly, GLA

Sunday 27th May 2012, anti-GM campaigners attended Rothamsted Park to hold a protest about the growing of an experimental genetically modified wheat crop in an open field.

Speakers included: Jenny Jones (London Green Party member);

Jenny JONES – shown only on systems for her legitimate activity as a member of the Green Party in connection with events that are subject of police reporting.

Open source research indicates that Green Party member Jenny Jones has tweeted that she a Green Party Mayor Candidate is attending the Critical Mass vigil on 10/08/2012 and is concerned that she maybe kettled by the MET.

anti-GM campaigners to protest on Sunday 27th May 2012.

Jenny Jones, Green Party candidate for London Mayor 2012, is confirmed as a speaker at the protest.

United Campaign Against Police Violence launch rally – London 05/05/2009

STOP POLICE VIOLENCE!

UCAPV launch rally - Tuesday 5 May, 7pm, Friends House (opposite Euston Station, London)

speakers include Jenny Jones (Green Party)

UCAPV Vigil & Demonstration 20/05/2009 & 23/05/2009

UNITED CAMPAIGN AGAINST POLICE VIOLENCE

PRESS RELEASE

Saturday 23 May - DEMONSTRATION:

STOP POLICE VIOLENCE!

KETTLE NEW SCOTLAND YARD!

Jenny Jones, Green Party member of the Greater London Assembly and Metropolitan Police Authority, said: "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 protesters and become law abiding themselves."