

## FOI Disclosures December 2019

### Index

This month we have responded to questions relating to the following topics:

- [Timetable of announcement of outcome of referral from the GLA relating to Boris Johnson](#)
- [Guidance regarding police ethics](#)
- [Correspondence with Cabinet Office regarding referral from GLA concerning Boris Johnson](#)
- [Report on Thames Valley Police regarding RTI in Didcot](#)
- [Politically restricted posts in the IOPC](#)
- [Decision on referral made by the GLA relating to Boris Johnson](#)
- [IOPC staff accessing pornographic websites](#)
- [Guidance about safety of offensive weapons used as evidence](#)
- [IOPC funding sources](#)
- [IOPC employees and the Official Secrets Act](#)
- [Police complaints and appeals data](#)
- [Investigations relating to retired officers](#)
- [Female deaths following police contact](#)

If you require a full copy of any of the embedded attachments, please contact [Requestinfo@policeconduct.gov.uk](mailto:Requestinfo@policeconduct.gov.uk) quoting the reference number from the relevant response.

<b>Ref</b> <b><u>1008012</u></b> <a href="#">Back to top</a>	<b><u>Timetable of announcement of outcome of referral from the GLA relating to Boris Johnson</u></b>
<b><u>Request</u></b>	<i>You requested copies of internal communications related to the timing of any announcement of our decision on the mandatory referral made by the GLA regarding Boris Johnson's conduct. In particular your request referred to any changes to our decision-making in light of the impending general election. You also asked for a copy of any timetable for consideration of the referral. You specifically asked for, "the last timetable produced before it was clear when the election would be held and the timetable that exists in relation to this matter now a general election will happen.</i>
<b><u>Response</u></b>	Having conducted searches of our systems, we have concluded that this information is not held by the IOPC.  We have never set out any formal timetable for our decision making and we have not delayed any announcements on the status of this referral.

	<p>Our assessment of this matter is ongoing as we continue to collect information and seek legal advice. We are unable to confirm precisely when a decision will be made.</p>
<p><b><u>Ref</u></b> <b><u>1008013</u></b> <a href="#">Back to top</a></p>	<p><b><u>Guidance regarding police ethics</u></b></p>
<p><b><u>Request</u></b></p>	<p><i>Full and complete copies of any IOPC guidance, and/or any other information they may hold, is sent to me in relation to how a police officer, who was the subject of a complainant's concerns, would be expected to conduct himself/herself towards the complainant following an investigation outcome, and also how a police officer, who was not the subject of that complaint but who has knowledge of it, would be expected to conduct himself/herself towards the complainant.</i></p> <p><i>Additionally, I would also be grateful if full and complete copies of any IOPC guidance, and/or any other information they may hold, is sent to me in relation to any duty of confidentiality (if any) by a police officer in respect of a complainant's concerns and associated investigation outcome.</i></p>
<p><b><u>Response</u></b></p>	<p>The standards of behaviour and guiding principles that police officers and staff are expected to meet and uphold are set out in the College of Policing's Code of Ethics.</p> <p>This information is accessible to you and can be found via the website using the following <a href="#">link</a>.</p> <p>Section 21 of the FOIA exempts a public authority from the duty to supply information which is reasonably accessible to the requester by other means. We find that the information you have requested falls into this category because it is available on the College of Policing website.</p>
<p><b><u>Ref</u></b> <b><u>1008017</u></b> <a href="#">Back to top</a></p>	<p><b><u>Correspondence with Cabinet Office regarding referral from GLA concerning Boris Johnson</u></b></p>
<p><b><u>Request</u></b></p>	<p><i>With reference to our decision on a referral received from the GLA regarding the conduct of Boris Johnson whilst he was Mayor of London, you requested the following information:</i></p> <p><i>"Please provide copies of any correspondence from either the Cabinet Office, the Government, Mr Johnson or anyone else acting on his behalf to the IOPC relating to delaying this announcement.</i></p>
<p><b><u>Response</u></b></p>	<p>Having conducted searches of our systems, we have concluded that we do not hold any information relevant to your request.</p> <p>It appears that your request may have been motivated by an article published in the Observer on 10 October 2019 and repeated in other newspapers, which alleged that the IOPC had delayed an announcement regarding our decision on this referral.</p>

	<p>The IOPC strongly refutes the claims published in The Observer suggesting our decision on the mandatory referral regarding Boris Johnson would be shelved until after the election. The Observer did not approach the IOPC to validate or confirm their claims.</p> <p>Our assessment of this matter has not been finalised. We have not delayed any announcements on the status of this referral. Our assessment is ongoing as we continue to collect information and seek legal advice. The decision and its announcement will be made when all relevant information and advice has been considered, whether that is before or after the election.</p>
<p><b><u>Ref</u></b> <b><u>1008027</u></b> <a href="#">Back to top</a></p>	<p><b><u>Report on Thames Valley Police regarding RTI in Didcot</u></b></p>
<p><b><u>Request</u></b></p>	<p><i>I am requesting the report of your independent office for police conduct report 2018/113504 regarding an RTI in Didcot and also details of the officer / person who agreed with the report from Thames valley police as stated on your website summary.</i></p>
<p><b><u>Response</u></b></p>	<p>The Appropriate Authority's determination in this case was made by Detective Chief Superintendent Colin Paine, Head of Thames Valley Police Professional Standards Department.</p> <p>We can confirm that the IOPC holds the full report of this investigation. We have decided, however, that we are not obliged to disclose this report to you because it engages the exemptions under sections 30(1)(a)(i) and section 40(2) of the FOIA.</p> <p>We are refusing the report under section 30 after concluding that the public interest in maintaining the exemption outweighs the public interest in disclosure. Section 40 is an 'absolute' exemption meaning that there is no requirement to consider the balance of the public interest before refusing the information.</p> <p>Our specific reasons for withholding the information are set out below.</p> <p><u>Section 30 – investigations and proceedings conducted by public authorities</u></p> <p>We are refusing the investigation report under this exemption.</p> <p>Section 30(1)(a)(i) exempts material <i>“held by a public authority for the purposes of any investigation which the public authority has a duty to conduct with a view to it being ascertained whether a person should be charged with an offence”</i>.</p> <p>The IOPC carried out its own investigation into this case in line with its functions under the Police Reform Act 2002. These include considering whether the investigation report indicates that a criminal offence may have</p>

been committed, and referring the report to the Director of Public Prosecutions (DPP) when we conclude that it does. As the IOPC is required to make these decisions, the information we hold about this investigation falls within the class of information covered by section 30(1)(a)(i).

Information can be withheld under section 30 only when the public interest in maintaining the exemption outweighs the public interest in disclosure.

Public interest in disclosure:

We accept that there is in general a legitimate and important public interest in publishing information about an investigation into the conduct of police officers, as this serves to inspire public confidence around the police complaints process.

In turn, disclosure would serve the general public interest in openness and in accountability for decision making and the use of public funds.

It is clear that the release of our full report with no or minimal redaction would confirm all of the evidence that was taken into account under the IOPC investigation and how this was related to the investigation findings.

Public interest in refusing to disclose under section 30:

The exemption under section 30 is concerned with preserving the safe space that can be critical to the investigation and prosecution process. As confirmed in guidance from the Information Commissioner's Office, section 30 is designed to protect the independence of the judicial and prosecution processes by preserving the criminal court as the sole forum for determining guilt.

There is a considerable public interest in ensuring that investigations, proceedings and prosecutions are conducted effectively. This requires the avoidance of prejudice either to particular investigations or proceedings, or to the investigatory and prosecution process more generally. In addition, the protection of individuals who co-operate with the police and the IOPC ensures that people are not deterred from making statements or reports by the fear that they may be publicised. In general these factors mean that a degree of confidentiality should normally be maintained in respect of the investigation process and the evidence it produces.

Balance of the public interest:

It is highly relevant that the investigation summary has been published on our web site in line with our [publication policy](#). We consider this information to be a proportionate response to the public interest in transparency and accountability, taking into account the competing public interest in preserving the confidentiality of investigations and the persons to whom they relate.

We have concluded that a version of the report redacted in line with FOIA exemptions would not leave the public any better informed about this case and, in contrast to the information on our web site, would be difficult to understand.

As confirmed in our published summary, the IOPC considered the evidence as to the conduct of the pursuit and the allegations of excessive force. We have provided reasons as to why the evidence did not indicate that any officer had behaved in a manner that would justify disciplinary proceedings, or had committed an offence.

Having regard to the facts of this case as confirmed on our web site, we consider that the information we have published meets the public interest in openness and accountability to a significant degree.

Taking all of the above into account we conclude that the public interest in maintaining the exemption under section 30 outweighs the public interest in disclosure.

#### Section 40 – Personal information

Section 40(2) applies to personal data about someone other than the requester when disclosure would breach any of the data protection principles contained in Article 5 of the General Data Protection Regulation (GDPR). In this case we have considered Article 5(1)(a), which requires the processing of personal data in a lawful, fair and transparent manner in relation to the individuals concerned.

A number of living persons are identified in this report. It may be helpful to explain that personal data does not only constitute names, addresses and dates of birth but encompasses any data that would be reasonably likely to result in the identification of an individual.

In assessing whether disclosure under the FOIA may be compliant with the GDPR, it is necessary to recognise that such disclosure is effectively an unlimited disclosure to the world at large, without conditions, which could lead to unwarranted intrusion resulting in damage or distress. In addition, there is no presumption under the GDPR that openness and transparency should take priority over personal privacy.

	<p>Some of the information is criminal offence data as defined in section 11(2) of the Data Protection Act 2018, meaning that it must be processed in accordance with the conditions imposed by section 10(5) of the DPA. We do not consider that disclosure under your request would meet any of these conditions; in particular, neither Part 3 paragraph 29 (consent from the data subject) nor Part 3 paragraph 32 (data made manifestly public by the data subject) would be satisfied by compliance.</p> <p>Other information in the report is ‘special category data’ under Article 9(1) of the GDPR because it relates to health and medical matters. Special category data cannot be disclosed unless one or more of the conditions for lawful processing under Article 9(2) would be satisfied. The Information Commissioner’s Office confirms that the only Article 9 conditions that could be relevant under the FOIA are conditions (a) (consent from the data subject), or (e) (information manifestly made public by the data subject), neither of which apply to your request.</p> <p>In our view none of the conditions under Article 6 or 9 of the GDPR would support release of this personal data and, in light of the published information, there does not appear to us to be any legitimate interest in disclosure of this personal data that could justify any intrusion upon the rights and freedoms of these individuals that would be likely to result. This takes into account the criminal justice and policing context of this personal data, the investigation findings and the information we have published on our web site in the interests of openness and transparency.</p> <p>This means that disclosure of this personal data would not be lawful, with the result that it is exempt under section 40(2) of the FOIA.</p>
<p><b><u>Ref</u></b> <b><u>1008033</u></b> <a href="#">Back to top</a></p>	<p><b><u>Politically restricted posts in the IOPC</u></b></p>
<p><b><u>Request</u></b></p>	<ol style="list-style-type: none"> <li>1. <i>Can you publish the list of posts which are politically restricted?</i></li> <li>2. <i>Also what political activities are staff allowed to take part in as the IOPC has a sensitive role?</i></li> <li>3. <i>Can you tell me how many current employees have held or hold elected political office in the UK?</i></li> </ol>
<p><b><u>Response</u></b></p>	<p>1. Our Staff Code of conduct section 8.3.1 (pages 11 -12) sets out our politically restricted posts.</p> <div style="text-align: center;">  <p>1008033 IOPC Code of Conduct.pdf</p> </div> <p>2. Members of our staff are allowed to take part in political activity provided that they are not in a politically restricted post. The permissible types of political activity are set out under the heading ‘Political Activities’ on page 11 of the Staff Code of Conduct.</p>

	3. None declared.
<b><u>Ref</u></b> <b><u>1008048</u></b> <a href="#">Back to top</a>	<b><u>Decision on referral made by the GLA relating to Boris Johnson</u></b>
<b><u>Request</u></b>	<p><i>In light of the recent announcement published in various newspapers see Guardian here</i></p> <p><a href="https://www.theguardian.com/politics/2019/nov/09/boris-johnson-jennifer-arcuri-iopc-delay-announcement-investigation">https://www.theguardian.com/politics/2019/nov/09/boris-johnson-jennifer-arcuri-iopc-delay-announcement-investigation</a></p> <p><i>The independent police watchdog has delayed its announcement on whether the PM should face an investigation into possible criminal misconduct until after the election.</i></p> <p><i>1. Please provide the person or persons responsible for the decision to delay the investigation?</i></p> <p><i>2. Please provide any potential 'Conflicts of Interest' of the above named persons with the Prime Minister. i.e. political associations or private member associations of ANY description that would link them with Boris Johnson?"</i></p>
<b><u>Response</u></b>	<p>The IOPC has not decided to delay the decision on the mandatory referral relating to the conduct of Boris Johnson when he was Mayor of London. Consequently we do not hold any information relevant to your request.</p> <p>It appears that your request was motivated by an article published in the Observer on 10 October 2019 and then repeated in other newspapers, including the Guardian article you provided, which alleged that the IOPC had delayed an announcement regarding our decision on this referral.</p> <p>The IOPC strongly refutes the claims originally published in The Observer suggesting our decision on the mandatory referral regarding Boris Johnson would be shelved until after the election. The Observer did not approach the IOPC to validate or confirm their claims.</p> <p>Our assessment of this matter has not been finalised. We have not delayed any announcements on the status of this referral. Our assessment is ongoing as we continue to collect information and seek legal advice. The decision and its announcement will be made when all relevant information and advice has been considered, whether that is before or after the election.</p>
<b><u>Ref</u></b> <b><u>1008037</u></b> <a href="#">Back to top</a>	<b><u>IOPC staff accessing pornographic websites</u></b>
<b><u>Request</u></b>	<p><i>Information relating to the number of attempts made by employees of the IOPC to access any web content categorised as pornographic content during 2019.</i></p>

	<p><i>The number of times the below URLs have been accessed by internet enabled devices issued to or used by IOPC employees: Pornhub.com; xhamster.com; redtube.com; epornier.com; porn.com; chaturbate.com</i></p>
<b><u>Response</u></b>	<p>We confirm that there has been one attempt to access ‘chaturbate.com’ from our corporate systems in 2019. There were no attempts to access any of the other named sites during 2019. We do not hold information in relation to the first part of your request as our systems do not enable us to confirm attempts to access sites that fall under the general category of ‘pornography’.</p>
<b><u>Ref</u></b> <b><u>1008039</u></b> <a href="#">Back to top</a>	<b><u>Guidance about safety of offensive weapons used as evidence</u></b>
<b><u>Request</u></b>	<p><i>In 2015, the then IPCC issued guidance to police forces about the safety of offensive weapons used in interviews as evidence. This came at a time the IPCC was independently investigating a matter where a male was arrested on suspicion of affray and possession of an offensive weapon. The man in question stabbed himself with a knife shown to him as an exhibit during a police interview..</i></p> <p><i>* Please disclose the outcome of the IPCC investigation, which force was involved and a summary of the findings.</i></p> <p><i>The IPCC guidance (during the independent investigation) recommended that tests be undertaken on weapons tubes to establish whether they are fit for purpose as there are concerns about their fragility when force is applied to them.</i></p> <p><i>* Did the IPCC follow this up to find out if tests were carried out and their findings?</i></p>
<b><u>Response</u></b>	<p><b>Summary of investigation findings and outcome</b></p> <p><u>Misconduct</u></p> <p>No misconduct notices were served in this case as it was established at an early stage that there was no indication that any officer had committed a criminal offence, or behaved in a manner which would justify the bringing of disciplinary proceedings.</p> <p>This investigation related to the Metropolitan Police.</p> <p><u>Whether the MPS policies and procedures on the production of offensive weapons during suspect interviews were complied with.</u></p> <p>Evidence obtained from the MPS showed a lack of any official guidance on how interviewing officers should produce offensive weapons, as exhibits during the interviewing process of a suspect.</p> <p>Evidence obtained from a CPS representative confirmed that no guidance had been given to the police service about how exhibits should be produced in interview. The CPS representative stated that in their view there was an expectation that prior to production the interviewing officer would carry out a risk assessment to minimise any potential dangers to those present.</p>

As no specific guidance on the production of weapons is given to interviewing officers, there are no set policies and procedures against which the actions of the interviewing officer could be determined. It was noted that individual circumstances differ and that officers' approach to production of exhibits at interviews also differs. As such there was not a general agreed service practice.

The extent of any risk assessment undertaken immediately prior to or during interview

The investigation found that an initial thorough risk assessment took place when the interviewee was detained. The interviewing officer said they carried out a further dynamic risk assessment prior to and during interview. However the factors that were considered cannot be identified as a written record was not kept.

The rationale for interviewee being shown the offensive weapon.

The officer gave several reasons for producing the knife during the interview. These were to obtain continuity of evidence, to help in establishing the points to prove for a possible prosecution and to use it as a platform for further questioning. This was in line with the officer's common practice. The officer was confident that the knife had been packaged correctly in a weapons tube and an additional exhibit bag.

The investigation identified that the officer's rationale for producing the knife in interview was a personal decision based on previous experiences in the criminal justice system.

Organisational learning

The lead investigator identified three quick time learning recommendations that were circulated in July 2015 to police forces, heads of professional standards units and Police and Crime Commissioners for consideration.

The recommendations were as follows:

That forces should consider introducing appropriate policy that covers:

1. Where any offensive weapon or other evidence is needed in interview, that evidence should be safely packaged and not be accessible to the subject at any time.
2. That a risk assessment should be carried out on the interviewee before producing any offensive weapon or other evidence to mitigate any risk. That risk assessment should consider risk factors such as violence, self harm or mental health.
3. The IPCC recommends that tests be undertaken on weapons tubes currently in use, to establish whether they are fit for purpose as there are concerns about their fragility when force is applied to them.

Following further consideration and discussion with the College of Policing, IPCC Commission delegate Tom Milsom decided that the matter did not meet the criteria for progression as a national recommendation. However the local recommendation remained in place in order to remind forces of the need to ensure that weapons tubes are fit for purpose. It was noted that the MPS was considering this issue in detail. Therefore, the recommendation was not followed up by the IPCC/IOPC.

<p><b><u>Ref</u></b> <b><u>1008050</u></b> <a href="#">Back to top</a></p>	<p><b><u>IOPC funding sources</u></b></p>
<p><b><u>Request</u></b></p>	<p><i>Please provide comprehensive details of all IOPC funding sources and contact details for each source.</i></p>
<p><b><u>Response</u></b></p>	<p>Please see our most recent <a href="#">annual report</a>. As confirmed in the report there are two sources of funding:</p> <ul style="list-style-type: none"> <li>• grant in aid (see page 104) and</li> <li>• revenue received in respect of IOPC investigations concerning HMRC and Immigration Enforcement (see page 77)</li> </ul> <p>Our grant in aid funding is received from the Home Office, as is our funding for Immigration Enforcement investigations. The contact details for the Home Office are:</p> <p style="padding-left: 40px;">2 Marsham Street Westminster London SW1P 4DF 0207 435 4848</p> <p>The contact details for HMRC are:</p> <p style="padding-left: 40px;">100 Parliament Street Westminster London SW1A 2BQ 0300 200 3300</p>
<p><b><u>Ref</u></b> <b><u>1008056</u></b> <a href="#">Back to top</a></p>	<p><b><u>IOPC employees and the Official Secrets Act</u></b></p>
<p><b><u>Request</u></b></p>	<p><i>1) Please can you provide a list of all employee roles who are employed by your authority and are subject to the provisions as set out in the Official Secrets Acts 1911-1989?</i></p> <p>...</p> <p><i>2) Please provide a disclosure of the format used by your authority which requires the signature of any role holder who is subject to provisions as set out in the Official Secrets Acts 1911-1989 such as an "Official Secrets Acts &amp; Confidentiality Declaration"</i></p>
<p><b><u>Response</u></b></p>	<p>All IOPC personnel and roles are subject to the Official Secrets Act 1989. As well as all permanent and temporary staff of all levels, this includes consultants and contractors.</p> <p>An extension of the 1989 Act came into effect on 19 August 2007, at which point all IOPC personnel were subject to its provisions. All staff must sign a Security Operating procedure (SyOPs) declaration which is attached. Staff are made aware of the provisions of the Official Secrets Act 1989 during the</p>

	<p>induction and we have produced guidance (attached) to answer some basic questions.</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">         SyOPs declaration.pdf     </div> <div style="text-align: center;">         Official Secrets Act - Basic Guide.pdf     </div> </div>
<p><b><u>Ref</u></b> <b><u>1008087</u></b> <a href="#">Back to top</a></p>	<p><b><u>Police complaints and appeals data</u></b></p>
<p><b><u>Request</u></b></p>	<ol style="list-style-type: none"> <li>1. <i>Whether people have confidence or are happy with the police complaints process?</i></li> <li>2. <i>How many complaints were not recorded a) by police forces b) by the IOPC?</i></li> <li>3. <i>How many of these were subject to appeal? How many were appealed? How many appeals were upheld?</i></li> <li>4. <i>How many complaints were dis-applied or otherwise dismissed by the force after being recorded?"</i></li> <li>5. <i>How many of these were subject to appeal? How many were appealed? How many appeals were upheld?"</i></li> </ol>
<p><b><u>Response</u></b></p>	<p>A number of your questions can be answered with reference to reports and guidance published on our website. Section 21 of the FOIA exempts a public authority from the duty to supply information which is reasonably accessible to the applicant by other means. We find that most of the information you have requested falls into this category because it is available on our website.</p> <p>We have answered each question in turn and directed you to the relevant guidance where applicable.</p> <p>1.You may wish to consider the following page of our <a href="#">website</a> which is where we publish our research to look at how effectively the police complaints system is operating and the results of our surveys to ask members of the public their view of us as an organisation and about the police complaints system. We have recently published our first <a href="#">Impact Report</a> which shares the difference we are making to improve public confidence in policing.</p> <p>2a) Comprehensive data regarding complaints that were <u>not</u> recorded by police forces is not held. It is the responsibility of the relevant police forces to decide whether a complaint will be formally recorded. The IOPC would only be aware of those non recorded complaints that were appealed, which would not represent all complaints that had not been recorded. You should redirect this part of your request to the police. Contact details can be found using the following link: <a href="https://www.police.uk/forces/">https://www.police.uk/forces/</a></p> <p>You may also want to refer to the police complaints statistics which we publish annually, or the quarterly performance data for police forces in England in Wales. Information regarding the number of complaints and allegations that were recorded by police forces can be found within these reports within tables four and five. Both sets of statistics can be found on our <a href="#">website</a>.</p>

	<p>2b)As explained above it is the relevant police force and not the IOPC that make a decision on whether to record a complaint. As the IOPC does not make these decisions, we consider that this information is not held.</p> <p>3.It is not clear what you mean by ‘<i>subject to appeal</i>’ particularly as the second part of your question asks how many non-recorded complaints were appealed, which appears in essence to be the same question. We have therefore interpreted ‘<i>subject to appeal</i>’ to mean ‘eligible to be appealed’.</p> <p>A right of appeal exists for all complainants whose complaint was not recorded, but not everybody submits an appeal against the recording decision. Further information about non-recording appeals can be found in the <a href="#">Statutory Guidance</a> published on our website.</p> <p>Details of the number of non-recorded complaints that were appealed can be found in tables 16 and 17 of the <a href="#">Annual Complaints Statistics Report</a>.</p> <p>4.Information about the number of recorded complaints dis-applied or discontinued by the police forces is contained within our <a href="#">Annual Complaints Statistics Report</a> at page six.</p> <p>5.We have again interpreted ‘<i>subject to appeal</i>’ to relate to disapplication and discontinuance decisions that are <u>eligible</u> for appeal. There is a right of appeal against any decision by the appropriate authority to disapply except where the complaint relates to a direction and control matter or where the IOPC gave permission for the disapplication. A decision by the appropriate authority to discontinue a recorded complaint can be appealed unless it relates to a direction and control matter or where the IOPC’s permission is needed to discontinue. Further information regarding the disapplication and discontinuance appeal process can be found in our <a href="#">Statutory Guidance</a> published on our website</p> <p>Information regarding appeals against dis-application and discontinuance decisions, including the numbers upheld, can be found in the <a href="#">Annual Complaints Statistics Report</a> at pages 12 to 14 and tables 13 and 16.</p>
<p><b><u>Ref</u></b> <b><u>1008092</u></b> <a href="#">Back to top</a></p>	<p><b><u>Investigations relating to retired officers</u></b></p>
<p><b><u>Request</u></b></p>	<ol style="list-style-type: none"> <li>1. <i>Investigations that were supervised by the IPCC between April 2004 and January 2018 into allegations of crime reported against:</i> <ul style="list-style-type: none"> <li>○ <i>former police officers that had retired before the IPCC’s inception in April 2004,</i></li> <li>○ <i>any other former police officer that had retired after April 2004 and,</i></li> <li>○ <i>any other member of the public</i></li> </ul> </li>   <li>2. <i>How many criminal investigations the IPCC agreed with police to defer between April 2004 and January 2018 into complaints reported against:</i> <ul style="list-style-type: none"> <li>○ <i>former police officers that had retired before the IPCC’s inception in April 2004</i></li> <li>○ <i>any other former police officer that had retired after April 2004 and,</i></li> <li>○ <i>and any other member of the public</i></li> </ul> </li>   <li>3. <i>How many dispensations the IPCC granted to police forces to dispense with investigations into allegations of crime reported against:</i></li> </ol>

	<ul style="list-style-type: none"> <li>○ <i>former police officers that had retired before the IPCC's inception in April 2004,</i></li> <li>○ <i>any other former police officer that had retired after April 2004 and,</i></li> <li>○ <i>any other member of the public</i></li> </ul> <p>4. <i>How many allegations of crime did the IPCC agree with police required no further investigation that had been reported against:</i></p> <ul style="list-style-type: none"> <li>○ <i>former police officers that had retired before the IPCC's inception in April 2004,</i></li> <li>○ <i>any other former police officer that had retired after April 2004 and,</i></li> <li>○ <i>any other member of the public</i></li> </ul>
<p><b><u>Response</u></b></p>	<p><b><u>Referrals</u></b></p> <p>All complaints are recorded by the police force concerned in the first instance. Complainants may send their complaint directly to the IOPC but our role is limited to passing the complaint on to the relevant police force so they can consider whether it should be formally recorded.</p> <p>Forces are also required to refer certain incidents such as death or serious injury to the IOPC regardless of whether there has been a complaint, and these are known as referrals. A referral can originate from one of three possible sources: a complaint, a death or serious injury (DSI) or a recordable conduct matter (RCM). A complaint can also be voluntarily referred to the IOPC, or the IOPC may 'Call in' the complaint where it sees fit.</p> <p>For more information on the types of incidents that are referred to the IOPC and the mandatory referral criteria please consult section 8 of our Statutory Guidance which can be found at the following link:</p> <p><a href="http://policeconduct.gov.uk/investigations/statutory-guidance">http://policeconduct.gov.uk/investigations/statutory-guidance</a></p> <p><b><u>MOI Decision</u></b></p> <p>Once a referral is made to the IOPC, we must determine whether the matter should be investigated. If the IOPC decides that the matter should be investigated then it must determine the mode of investigation by considering the seriousness of the case and the level of public interest. The mode of investigation may be:</p> <ul style="list-style-type: none"> <li>● local investigation – an investigation carried out by the police force on its own behalf;</li> <li>● supervised investigation – an investigation carried out by the police force under the IOPC's supervision;</li> <li>● managed investigation – an investigation conducted by the police force under the direction and control of the IOPC; or</li> <li>● independent investigation – an investigation carried out by the IOPC.</li> </ul>

Further information about referrals to the IOPC can be found in the IOPC Statutory Guidance (Section 8):

<http://policeconduct.gov.uk/investigations/statutory-guidance>

### **Supervised investigations**

Between 1 April 2004 and 1 January 2018, the IOPC completed 2,776 supervised investigations.

Supervised investigations will be started following a referral, and as stated above, a referral may not be the result of a complaint. It may be a referral relating to a conduct or DSI matter.

The IOPC does not have a way to ascertain whether a supervised investigation relates to an original allegation of a criminal offence. This can only be achieved through manual searches of case descriptions or documents.

The IOPC records factors on cases so that it can monitor trends and themes in cases we deal with. A factor is a theme that might apply in the given circumstances of a case. However, as the IOPC is not responsible for initial recording of the complaints, we collect only limited information about those made directly to us. The majority of these complaints do not have factors recorded on our case management system.

The IOPC case factors do not align with criminal offences, so it is not possible to use these to assess whether the original referral was related to allegations of criminal activity specifically.

### **Criminal investigations**

The IOPC does not have the power to defer criminal investigations. Therefore the information requested is not held.

### **Applications for dispensation**

There are certain limited circumstances in which a recorded complaint does not have to be dealt with under the Police Reform Act 2002. This is called disapplication and means that an appropriate authority (usually a police force) may disapply the requirements of Schedule 3 of the Police Reform Act 2002 in relation to a complaint. The appropriate authority may instead handle a recorded complaint in whatever manner it thinks fit, including taking no action on it. Details of the grounds for disapplication can be found in Section 4 of the IOPC Statutory Guidance on our website:

<http://policeconduct.gov.uk/investigations/statutory-guidance>

The IOPC's permission to disapply a recorded complaint is only required where the complaint has previously been referred to the IOPC. Disapplication of a recorded complaint can be carried out by the police force if the complaint was not required to be referred to the IOPC. Police force information about the number of allegations disapplied can be found in the Police Complaints Bulletins on the IOPC website via the following link:

<http://policeconduct.gov.uk/research-and-learning/statistics/complaints-statistics>

	<p>Between 1 April 2004 and 1 January 2018, the IOPC made a decision on 300 disapplication appeals. Of these, 237 were considered valid, and 191 of these were approved or part-approved by the IOPC (i.e. the IOPC approved the appropriate authority to disapply the recorded complaint).</p> <p>As stated above, the IOPC does not have the ability to easily identify which cases are related to allegations of criminality in particular. This can only be achieved through manual searches of case descriptions or documents.</p> <p>Section 12 (1) of the Freedom of Information Act sets out that a public authority need not disclose data requested if the authority estimates that the cost of complying with the request would exceed the appropriate limit. Regulations set out that the appropriate limit for the IOPC is £450. Time for staff to undertake manual searches to locate, identify and retrieve information is calculated at £25 per hour. This means that the limit is 18 hours.</p> <p>We estimate that reviewing the case descriptions and documents for each of the 2,776 investigations mentioned above and these 191 referrals would take approximately 495 hours to complete, based on an average of 10 minutes to locate, review and retrieve the details of each relevant case. To provide this information would breach the cost limits and therefore, the IOPC is not obliged to comply with this part of your request.</p> <p><b><u>Investigations of crime requiring no further investigation</u></b></p> <p>The IOPC does not confer with police forces about criminal investigations.</p> <p>As mentioned above, the IOPC receives referrals from police forces, some of which may be relating to allegations of criminal actions by a police officer or member of police staff. The IOPC may make a decision to return a referral to force to deal with it how they see fit. However, this does not mean that the IOPC believes an investigation is or is not appropriate.</p> <p>Therefore the information requested is not held.</p> <p><b><u>Complaints against members of the public</u></b></p> <p>The IOPC oversees the police complaints system in England and Wales and we only hold information relating to complaints against police officers and police staff. We do not hold information about complaints against others outside of police officers or police staff.</p>
<p><b><u>Ref</u></b> <b><u>1008067</u></b> <a href="#">Back to top</a></p>	<p><b><u>Female deaths following police contact</u></b></p>
<p><b><u>Request</u></b></p>	<p><i>From the financial year 2014/15 until present:</i></p> <ol style="list-style-type: none"> <li>1. <i>How many deaths fell under the category “other deaths following police contact – independent investigation” where the reason for contact was “domestic-related”?</i></li> <li>2. <i>Of the above deaths, how many investigations have concluded?</i></li> </ol>

	<p>3. <i>Of the concluded investigations identified at (2) above, how many of the deaths investigated concerned deceased women?</i></p> <p>4. <i>For each of the concluded investigations concerning deceased women identified at (3) above, please provide the following:</i></p> <ul style="list-style-type: none"> <li>a. <i>Date of death;</i></li> <li>b. <i>Name of deceased;</i></li> <li>c. <i>IPCC/IOPC investigation reference</i></li> <li>d. <i>Date of investigation report; and</i></li> <li>e. <i>Police force investigated</i></li> </ul>
<p><b><u>Response</u></b></p>	<p>The timeframe we have considered under your request is deaths occurring between 1 April 2014 and 31 March 2019. We have been unable to look at any more recent deaths as the reporting of deaths within the ‘other deaths following police contact’ category would be included in our 2019/20 annual death report. These cases are still in the process of being verified and checked.</p> <p>To answer <b>point 1</b> of your query, we have taken the term ‘domestic-related’ to refer to the ‘concern for welfare – domestic related’ reason for contact within the ‘other deaths following police contact’ category. Between 2014/15 and 2018/19 there were 86 deaths that fell under the category ‘other deaths following police contact – independent investigation’ where the reason for contact was ‘concern for welfare - domestic-related’. Please note that an incident subject to independent investigation may involve more than one death, therefore the number of deaths identified will not necessarily be the same as the number of independent investigations into these deaths.</p> <p>At <b>point 2</b> you have requested information on how many of the investigations into the deaths identified at point 1 have concluded. We have taken the term ‘concluded’ to refer to whether the IOPC’s investigation has been completed. An IOPC investigation is complete from the date that the final report is approved. To provide this information, we have obtained the final report approval dates for the 86 cases identified under point 1 from the IOPC’s case management system. Where an investigation has not been completed, this field has been returned as ‘ongoing’.</p> <p>Of the 86 deaths identified at point 1, 82 of these deaths are from 74 completed investigations. As noted above, some of the incidents subject to independent investigation involved more than one death. For this reason, the number of deaths from completed investigations differs from the number of completed independent investigations into these deaths.</p> <p>On <b>point 3</b> of your request, of the 82 deaths identified at point 2 where the independent investigation has been completed, 49 deaths were of deceased women.</p> <p>For information relating to <b>point 4, subsections a) to e)</b> of your request, please refer to the spreadsheet that accompanies this letter. We have taken ‘date of investigation report’ as requested in <b>point 4 d)</b> to refer to the date that the final report was approved.</p> <div style="text-align: center;">  <p>1008067 Data for disclosure.pdf</p> </div>

We have not disclosed the name of the deceased nor the IOPC reference number where the IOPC involvement has not been made public and are relying on exemptions under sections 30 (investigations and proceedings) and 40 (personal data) of the FOIA to refuse this information.

In the case of information falling within the terms of section 30, we are refusing your request because the public interest in maintaining the exemption outweighs the public interest in disclosure.

Our specific reasons for withholding the information are as follows:

Section 30– Investigations and proceedings conducted by public authorities

Section 30(1)(a)(i) exempts material *“held by a public authority for the purposes of any investigation which the public authority has a duty to conduct with a view to it being ascertained whether a person should be charged with an offence”*.

The IOPC carried out its own investigations into the identified cases in line with its functions under the Police Reform Act 2002. These include considering whether the investigation report indicates that a criminal offence may have been committed. As the IOPC is required to make these decisions, the information we hold in relation to these investigations falls within the class of information covered by section 30.

Section 30 is a ‘qualified’ exemption subject to a public interest test, meaning we must decide whether the public interest in maintaining the exemption outweighs the public interest in disclosure.

Our arguments regarding the public interest test are as follows:

The public interest in release:

We accept that there is a legitimate and important public interest in publishing information about an investigation into the conduct of police officers, as this serves to inspire public confidence around the police complaints process. In turn this would serve the public interest in openness and in accountability for decision making and the use of public funds.

The public interest in refusal of the information:

There is considerable public interest in ensuring that investigations, proceedings and prosecutions are conducted effectively and maintaining this exemption preserves the safe space that can be critical to the investigation and prosecution process.

Within the scope of your request, a number of the investigations that the IOPC has been involved with have not been publicised due to particular sensitivities. For example some of the investigations relate to domestic violence. The protection of individuals who co-operate with the police and the IOPC ensures that people are not deterred from making statements or reports by the fear that they may be publicised.

In general these factors mean that preserving confidentiality should normally be maintained in respect of the investigation process and the evidence it produces.

We are proactive in publishing details about our investigations in line with our [publication policy](#). The policy ensures a proportionate response to the public interest in transparency and accountability, taking into account the competing public interest in preserving the confidentiality of investigations and the persons to whom they relate. Before making a publication decision we consider the individual sensitivities in a case. The fact that we have not even confirmed our involvement in some of the investigations is indicative of the sensitive nature of those cases and the necessity to avoid public intrusion by publishing information that would allow the case and individuals involved to be identified.

Taking all of these factors into account we have concluded that the public interest in disclosure is outweighed by the public interest in maintaining this exemption.

#### Section 40 – Personal information

Section 40(2) applies to personal data about someone other than the requester when disclosure would breach any of the data protection principles contained in Article 5 of the General Data Protection Regulation (GDPR). In this case we need to ensure that any personal data is processed lawfully, fairly and in a transparent manner in relation to the individuals concerned.

Disclosure of some of the information such as the name of the deceased and the case reference number could indirectly lead to identification of other persons involved in the investigations, including witnesses, family members and police officers. This therefore qualifies as personal data.

In assessing the fairness of disclosing personal information under the FOIA it is necessary to recognise that such disclosure is effectively an unlimited disclosure to the world at large, without conditions, which could lead to unwarranted intrusion in the private affairs of individuals resulting in damage or distress. In addition, there is no presumption under the GDPR that openness and transparency should take priority over personal privacy.

In our view none of the conditions under article 6 of the GDPR would support disclosure of this personal data and any legitimate interest in disclosure could not justify the invasion of privacy and potential distress that would be likely to result.

Turning to the fairness aspect, we consider that it would not be in the reasonable expectations of those living individuals who may be indirectly identified that this personal data would be made public, particularly where this would be in contradiction of earlier publication decisions made by the IOPC.

As we consider that disclosure would be neither lawful nor fair, this means that the exemption at section 40(2) of the FOIA applies to the personal data we have removed.

