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| <p>1 (Wednesday, 17 April 2024) 2 (10.01) 3 THE CHAIRMAN: Sir Peter, my 4 enthusiasm to keep to the timetable yesterday 5 of course was to finish your examination in 6 time to allow Mr Wagner to examine the 7 witness for the last hour. I did not then know 8 that Mr Wagner was going to ask to adjourn 9 early. I would not want you to think, as I 10 think you may have done, that I was hurrying 11 you along so that we could finish early. 12 SIR PETER CARUANA: No, I did not think 13 that, sir. It was regrettable in the end but I 14 did not attribute to you, sir, knowledge that 15 that was going to happen. 16 THE CHAIRMAN: No. 17 SIR PETER CARUANA: That is how it 18 happened in the end, but not through any 19 intention on your part. 20 THE CHAIRMAN: Obviously it is 21 important that everyone has their say, but we 22 do need to keep to the timetable, as I am sure 23 you understand. 24 MR WAGNER: Thank you. 25 THE CHAIRMAN: Now, you are okay, are</p> <p style="text-align: center;">Page 1</p> | <p>1 are some bullet points below paragraph 9. 2 Here we go, and just above there. So, you 3 were asked about the airport incident but 4 there were not any questions about the 5 background to the airport incident. And you 6 have in fact set out in your responsive 7 affidavit at paragraph 9 a summary of the 8 incident. And I am just going to read it out 9 briefly: 10 "A UK serviceman based in Gibraltar was 11 suspected of possessing indecent images of 12 children in his computer. The Joint Provost 13 and Security Unit/UK Services Police, 14 believing to have jurisdiction in Gibraltar, 15 unlawfully arrested the serviceman here." 16 THE CHAIRMAN: Hang on, this does not 17 sound like a question. 18 MR WAGNER: Sorry? 19 THE CHAIRMAN: This does not sound like 20 a question. 21 MR WAGNER: I just want to ask if he 22 agrees with that summary. He can read it if 23 he wants without me reading it out. 24 THE CHAIRMAN: How much are you 25 going to read?</p> <p style="text-align: center;">Page 3</p> |
| <p>1 you, this morning? 2 THE WITNESS: Yes, sir. 3 MR WAGNER: Thank you. 4 THE CHAIRMAN: Over to you. 5 MR WAGNER: And just to clarify on that, 6 and I think it probably was a bit of 7 miscommunication, but I asked just to finish 8 at 4.30 and then adjourn, rather than stay late. 9 I did not actually request to adjourn straight 10 away, but when that was offered I did 11 consider that as very sensible. 12 THE CHAIRMAN: Anyway, here we are. 13 There is no slippage because we are going to 14 get back on course. 15 MR WAGNER: No, exactly. 16 MR IAN McGRAIL, recalled 17 Questioned by MR WAGNER 18 MR WAGNER: Good morning, 19 Mr McGrail. 20 A. Good morning. 21 Q. Final stretch for you now. Thank you 22 very much for waiting overnight. I want to 23 start, please, with the airport incident and I 24 have asked for A143. If we could just scroll 25 down. A little bit further down, just so there</p> <p style="text-align: center;">Page 2</p> | <p>1 MR WAGNER: Just those bullet points. 2 THE CHAIRMAN: Okay. 3 MR WAGNER: "The UK Services Police 4 refused to collaborate with the RGP. The 5 UK Services Police had no legitimate 6 authority or powers under the Armed Forces 7 Act 2006 to operate in Gibraltar. 8 "Negotiations to resolve and de-escalate the 9 situation proved futile despite persistent 10 attempts by the RGP. 11 "The MOD ignored the RGP's claim of 12 jurisdiction over the case of the serviceman. 13 They attempted to remove him and the 14 evidence from the jurisdiction. Senior 15 military officials appeared to have lied to the 16 then [Commissioner of Police] Yome and 17 other RGP senior officers in their attempts to 18 do so." 19 "The RGP asserted its jurisdiction on the 20 matter and were obstructed by senior military 21 officials. The Chief Justice of Gibraltar, The 22 Honourable Mr Justice Dudley, granted 23 a warrant to the RGP to seize the exhibits 24 being held by the UK Services Police. The 25 application for the warrant was made by</p> <p style="text-align: center;">Page 4</p> |

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| <p>1 Senior Counsel at the time, Ricky Rhoda 2 CBE KC (previously the Attorney General 3 for Gibraltar) on behalf of the RGP who were 4 present to lay information under oath. 5 "After heightened tensions and non-stop 6 attempts by the RGP to resolve the matter, 7 the MOD relented and did not fly out the 8 serviceman or the exhibits." 9 And just below: 10 "The senior military officials were 11 subsequently arrested for obstructing police 12 and attempting to pervert the course of 13 justice." 14 And then there is a description of who were 15 involved, including Lord Pannick who gave 16 a legal advice, the Secretary of State, Sir 17 Alan Duncan, and I think later on in your 18 statement you also say that the incident was 19 only resolved after the intervention of the 20 person who is now the current Chief of 21 Defence staff, Admiral Sir Antony David 22 Radakin. Is that correct? 23 A. Those bullet points you have read out are 24 an accurate picture of what happened on the 25 day, as truly regrettable as it was.</p> <p style="text-align: center;">Page 5</p> | <p>1 something else. But I believe that that was 2 what Mr Yome did. He deployed several 3 officers. 4 Q. At paragraph 29, and this relates to what 5 you were discussing yesterday, the applying 6 for the search warrants. He says: 7 "In the days that followed I received a report 8 from Mr McGrail to the effect that as part of 9 his investigation he required to execute 10 search warrants at the offices of Commander 11 British Forces and his deputy at the Naval 12 Base, the Naval Provost offices and the RAF 13 Station Commanders office for the purposes 14 of securing material evidence in furtherance 15 of his investigation. I sanctioned that course 16 of action." 17 Do you recall him sanctioning that course of 18 action? 19 A. Yes, he had detailed me to investigate the 20 activities that occurred on the day and as part 21 of those inquiries I needed to obtain evidence 22 and through the execution of warrants. 23 Q. Now, quite a bit after the airport incident 24 had concluded, there were some complaints 25 made about your conduct. Is that right? To</p> <p style="text-align: center;">Page 7</p> |
| <p>1 Q. Yes, and at the heart of this was a person 2 who was suspected of holding indecent 3 images of children. Is that correct? 4 A. Indeed, a suspected paedophile. 5 Q. Did he later come to be convicted in the 6 UK? 7 A. I understand so, in a court martial, yes. 8 Q. Yes. You were not the Commissioner of 9 Police at the time of the airport incident, 10 were you, Mr McGrail? 11 A. I was not. 12 Q. The Commissioner of Police was Edward 13 Yome, sometimes referred to as Eddie 14 Yome -- 15 A. That's right. 16 Q. -- in the documents. He has given 17 a statement to this inquiry. Please could you 18 turn to A1345 and paragraph 25. He says 19 there: 20 "I wish to emphasise that police officers were 21 deployed to the airport solely on my 22 instructions." 23 Was that your memory? 24 A. Several ... I wasn't detailed under those 25 instructions. I was detailed to be with</p> <p style="text-align: center;">Page 6</p> | <p>1 the Gibraltar -- 2 A. A few years later, yes. 3 Q. A few years later. Is it right to say those 4 complaints were dismissed? 5 A. I provided explanations in answer to 6 questions by the Police Complaints Board 7 and I never received any response from them, 8 but I understand that the complaints were not 9 upheld. 10 Q. Yes. If we go to B2709, you can take it 11 from me in fact this was only resolved on 29 12 May 2020. This is from the Chairman of the 13 Police Complaints Board. This related to 14 a complaint against you and Superintendent 15 Wayne Tunbridge: 16 "The Police Complaints Board has 17 considered the findings of the subcommittee 18 and finds that the RGP did not act 19 unprofessionally in the execution of their 20 duties and therefore the complaint has not 21 been sustained. The complaint made against 22 the Commissioner of Police, Ian McGrail, 23 and Superintendent Wayne Tunbridge is 24 therefore dismissed." 25 So you never received that letter.</p> <p style="text-align: center;">Page 8</p> |

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| <p>1 A. No, I didn't. 2 Q. No. 3 A. I know there was also an appeal, 4 subsequent appeal. 5 Q. Yes. 6 A. Which was then referred to the Police 7 Authority too. 8 Q. Yes. 9 A. I didn't know it until this hearing and I 10 seem to think, if I am mistaken I apologise, 11 but I seem to have read or heard that the 12 Chief Secretary, Mr Darren Grech, and 13 Mr Nick Pyle, formed the subcommittee of 14 the Police Authority and they did not uphold 15 that appeal neither. 16 Q. Mr Pyle was (inaudible). 17 A. That's what I seem to have captured 18 somewhere during the proceedings here. 19 Q. Okay. 20 A. Or read it somewhere. 21 Q. We will find that. Is it right to say that 22 the RGP's actions overall were reviewed by 23 the Gibraltar Police Authority? 24 A. Yes, they called us in, the Authority 25 called us in.</p> <p style="text-align: center;">Page 9</p> | <p>1 personnel in respect of the Watterson 2 incident deserve censure and that you should 3 consider whether a full inquiry ought to be 4 undertaken by a body independent of the 5 RGP and the MOD so that lessons may be 6 learned from this incident." 7 There was no further wider inquiry, was 8 there? 9 A. Not to my understanding. 10 Q. No. Was Mr Pyle a member of the 11 Gibraltar Police Authority at that time? 12 A. At the time of the incident or around 13 the -- 14 Q. When these complaints were being ... if 15 you do not know -- 16 A. Yes, yes. At the time of the complaints I 17 believe he was, yes. Definitely was. 18 Q. And are you aware of Mr Pyle registering 19 any kind of concern to the Gibraltar Police 20 Authority about your actions? 21 A. I'm not aware of any of that. 22 Q. Did he ever, before, well, let us say while 23 you were Commissioner or a police officer, 24 did he ever refer any concerns about your 25 conduct to you?</p> <p style="text-align: center;">Page 11</p> |
| <p>1 Q. Yes. 2 A. And there was a question and answer 3 session and we had to deliver individual 4 inputs to the Authority on our actions and our 5 decision making. 6 Q. Yes, and if we could just turn to B2157, 7 and this is an email, I think the best evidence 8 of the outcome of that investigation is in this 9 email. If we can just go a little bit further 10 down in the email of Alkar Hamdin and they 11 refer to the Wattersons and was 12 Mr Watterson the suspect? 13 A. Yes, he was the -- 14 Q. If we just go further down, please: 15 "The GPA has come to the firm conclusion 16 that the actions of and the restraint shown by 17 the relevant RGP officers during the 18 Watterson incident were considered, 19 deliberated, entirely proportionate and highly 20 commendable. As such we do not doubt the 21 effectiveness and probity of the policing 22 demonstrated by the RGP in respect of the 23 Watterson incident. We would take the 24 liberty of adding that it may not be our place 25 to do so, the actions of certain MOD</p> <p style="text-align: center;">Page 10</p> | <p>1 A. He's never raised any concerns about this 2 or any other matter for that matter. 3 Q. Was the airport incident, from your 4 memory, and I can take you to it if you need 5 to see it, was the airport incident referred to 6 the GPA's letter of 22 May setting out what 7 they said were to be the reasons for the Chief 8 Minister's and Mr Pyle's loss of confidence? 9 A. No. 10 Q. Did the airport incident feature in the 11 letters Mr Pyle and Mr Picardo sent to the 12 GPA on 3 and 5 June and which you received 13 very shortly before you notified Mr Pyle you 14 were retiring? 15 A. Nothing of that sort was mentioned. 16 Q. No. Did the airport incident feature in 17 the emails or discussions you had with 18 Mr Pyle when he was saying he was going to 19 exercise his section 13 powers to force you to 20 resign? 21 A. Not at all. 22 Q. When do you find out that Mr Pyle had 23 these concerns about your conduct in the 24 airport incident? 25 A. When the inquiry was convened, I</p> <p style="text-align: center;">Page 12</p> |

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| <p>1 believe. Let me try and think. 2 Q. Was it when you received the first 3 affidavit from Mr Pyle in 2022? 4 A. Once the inquiry was convened, yes. 5 Q. So would it be fair to say that the airport 6 incident had no bearing whatsoever on your 7 decision to take early retirement in 8 June 2020? 9 A. When Mr Pyle sat in the Promotion 10 Board, that I took for the appointment to the 11 post of Commissioner, he asked me 12 questions, he was part of the authority in that 13 regard. The subject matter, neither that or 14 any of the other concerns that he said he had, 15 were put to me in any way, shape or form. 16 Q. No, but it was not in your mind when you 17 decided to take early retirement in June 2020. 18 A. Absolutely. I didn't know, I didn't know 19 it featured. 20 Q. How did you feel to find out that these 21 serious allegations were being used behind 22 the scenes without you knowing to justify 23 your removal from post? 24 A. This was an evident embellishment of 25 an already, to my view, of an already flawed</p> <p style="text-align: center;">Page 13</p> | <p>1 give you a figure. 2 Q. Yes. 3 A. But I remember at the time there was 4 a couple of murder investigations. 5 Q. Yes. 6 A. Some corruption investigations. 7 Investigations per se or are we talking 8 demands? 9 Q. And presumably there was, as well as 10 those very serious investigations, there were 11 probably quite a lot of -- 12 A. Demand, yes. 13 Q. -- less serious investigations. 14 A. Absolutely, yes. 15 Q. Robberies, burglaries, that sort of thing. 16 A. Burglaries, yes, yes. That's the run of the 17 mill. 18 Q. Yes. You said a few times and you have 19 been asked a few times about this idea of 20 operational decisions and whether you took 21 operational decisions and investigations. 22 Before I ask you that question, can you just 23 define what you mean and what you think is 24 meant generally by operational? 25 A. Operational is, in plain language, on the</p> <p style="text-align: center;">Page 15</p> |
| <p>1 process and this was just flouring it all up to 2 make it worse looking in my direction. 3 Q. How did it feel that you were not given 4 the chance to defend yourself against those 5 allegations that were being made behind the 6 scenes until yesterday? 7 A. It's a question of insincerity on the part of 8 the persons making those claims. Totally 9 unfair. How can I respond to those matters 10 when I wasn't even aware of them? 11 Q. I want to move on to your role as the 12 Commissioner of Police, just to give a bit of 13 background to your evidence. At the time 14 you were Commissioner, roughly how many 15 officers were in the RGP? 16 A. 250 maybe, 250, 260. 17 Q. So there were about 250 or 260 officers 18 under your command. 19 A. Yes. 20 Q. And can you help us with this? And if 21 you cannot help us that is fine. How many 22 investigations would be ongoing at any given 23 time? 24 A. I wouldn't be able to do so. I wouldn't be 25 able to give you ... it would be misleading to</p> <p style="text-align: center;">Page 14</p> | <p>1 ground decisions taken by people who are 2 involved hands-on and therefore as 3 Commissioner I would not play a part in any 4 of that. However, it is always, it depends on 5 the style of the Chief Officer, whether you 6 want to have briefings delivered to you 7 periodically or whether you want to go in and 8 dip into the detail or some of the detail and 9 just to get a flavour of how things are 10 manoeuvring, as encompassing as part of the 11 governance and superintendence to satisfy 12 your own appetite that things are working 13 well. But that is not written in stone, or set in 14 stone, rather. That is more the practices of 15 individual chief officers. 16 Q. You mentioned governance and 17 superintendence. Those are words you also 18 used yesterday. Would it be right to say that 19 that really is about the Commissioner of 20 Police taking a general overview of things 21 but not getting involved in the nitty-gritty? 22 A. It does, yes. 23 Q. Did you have other duties as 24 Commissioner apart from superintendence 25 and governance of investigations?</p> <p style="text-align: center;">Page 16</p> |

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| <p>1 A. Yes, maintaining, ensuring value of many 2 practices and efficient -- 3 Q. Sorry, I did not catch that. 4 A. Value ... ensuring that there was value for 5 many practices. 6 Q. Yes. 7 A. In terms of efficiency. 8 Q. Would you be dealing with training of 9 officers, overseeing training of officers? 10 A. Well, that would be encompassing in the 11 question of personnel development, and so 12 forth. 13 Q. And -- 14 A. But not, I would never have a hands-on 15 there at all. 16 Q. And what about your duties as a sort of 17 public facing Commissioner, duties towards 18 the public? Would you be talking to the 19 public at any time? 20 A. Certainly. Public engagement does 21 feature in part of the Commissioner's sort of 22 responsibilities, yes. 23 Q. And also engagement with the 24 individuals or the roles we have been 25 discussing at the inquiry, the Chief Minister,</p> <p style="text-align: center;">Page 17</p> | <p>1 county force has to contend with. So the ... 2 and all the political issues around that. We 3 are bang in the middle of one of the busiest 4 routes for organised crime in terms of drug 5 smuggling, people smuggling. 6 Q. Yes. 7 A. And in the days of Al-Qaeda, 16 8 kilometres away from here was an Al-Qaeda 9 training camp. So you have to factor all that 10 in. You compare it to Warwickshire Police 11 or Cambridgeshire Police, it's more ... they 12 are doing a more localised service, providing 13 a more localised service, and we are 14 providing more of a national because of the 15 geography and the strategic location of 16 Gibraltar. 17 Q. All those county police forces, if they 18 need to deal with counterterrorism issues 19 they will go to the Met, will they not? 20 A. Absolutely. 21 Q. SO15, they would not need to deal with it 22 themselves. 23 A. Yes, absolutely. 24 Q. But you have the whole package. 25 A. We have the whole package.</p> <p style="text-align: center;">Page 19</p> |
| <p>1 the Governor -- 2 A. Officials, certainly. That's part of our -- 3 Q. -- the DPP, the Attorney General. 4 A. Yes. In fact, when I, I seem to recall, 5 when I got appointed I did the rounds, 6 introducing myself to government ministers 7 individually. 8 Q. How does policing in Gibraltar compare 9 to, say, a county police force in the UK? 10 And are there any unusual aspects? 11 A. The small territory that Gibraltar is, but it 12 is in geopolitical or strategic location, puts 13 a lot of demand on a police service the size 14 of Gibraltar. Although we are probably 15 smaller in number in terms of police officers 16 than any home county police force in the UK, 17 the demands and the responsibilities tasked 18 to the Gibraltar Police far exceed perhaps 19 even the smallest of county forces, the likes 20 of perhaps Warwickshire, who has in itself 21 probably ten or 15 times larger the number of 22 officers. But we carry out a metropolitan 23 style of policing because we have an airport, 24 a border and a seaport, international waters, 25 territorial waters, that not necessarily a home</p> <p style="text-align: center;">Page 18</p> | <p>1 Q. Yes. Turning now to Op Delhi, against 2 that background. You said in your evidence 3 that you had a satellite view of Op Delhi. 4 What did you mean by that? 5 A. That I didn't know the detail. I knew 6 some of the detail. I knew the seriousness 7 definitely, which is what attracted me to keep 8 an interest in it. We are talking about 9 a sabotage of a national security platform that 10 provides security to Gibraltar, which was 11 severely assaulted and compromised, putting 12 at risk the people of Gibraltar and those 13 visiting Gibraltar. You cannot diminish in 14 the slightest of terms the importance of this. 15 Q. I will ask you about the seriousness in 16 a moment. You also said you had strategic 17 involvement in the investigation. Is that 18 different to operational involvement? 19 A. Yes. I wouldn't describe it as strategic. I 20 was from a strategic position, but not 21 featuring in the strategic decisions relating to 22 Delhi. That was dealt with by 23 Mr Richardson, but I had strategic oversight 24 of that and how it impacted in daily business 25 and the consequences of what could happen,</p> <p style="text-align: center;">Page 20</p> |

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| <p>1 and so forth. I was alive to that.</p> <p>2 SIR PETER CARUANA: I am going to rise</p> <p>3 to suggest that Mr McGrail's answer to the</p> <p>4 previous question by Mr Wagner transcends</p> <p>5 the line into --</p> <p>6 THE CHAIRMAN: Yes, we must be very</p> <p>7 careful that we do not walk into a minefield,</p> <p>8 I completely agree.</p> <p>9 SIR PETER CARUANA: I have not risen</p> <p>10 before --</p> <p>11 THE CHAIRMAN: No.</p> <p>12 SIR PETER CARUANA: -- but his answer</p> <p>13 about the effect of the ... his reference to</p> <p>14 sabotage I find, reference to seriousness,</p> <p>15 which is what Mr Wagner is going to ask him</p> <p>16 about in a moment are fine. But the things</p> <p>17 that he said about the attacks and the</p> <p>18 possibility ... it is close to the line. I just urge</p> <p>19 caution if you --</p> <p>20 THE CHAIRMAN: Yes.</p> <p>21 MR SANTOS: I think a decision has to be</p> <p>22 made soon as to whether to stop the live</p> <p>23 stream in respect of that response.</p> <p>24 THE CHAIRMAN: Do you propose to</p> <p>25 pursue the matter further, Mr Wagner?</p> <p style="text-align: center;">Page 21</p> | <p>1 operational decisions in Op Delhi?</p> <p>2 A. I have plain confidence, yes.</p> <p>3 Q. And was the decision to apply for</p> <p>4 a search warrant against Mr Levy one which</p> <p>5 was taken by the investigative team?</p> <p>6 A. It was.</p> <p>7 Q. Did you have any involvement with the</p> <p>8 drafting of the national decision model</p> <p>9 documents?</p> <p>10 A. I had no involvement whatsoever.</p> <p>11 Q. The drafting of the charging advice?</p> <p>12 A. None whatsoever.</p> <p>13 Q. The drafting of the plan for action to be</p> <p>14 taken against Mr Levy?</p> <p>15 A. No, none whatsoever.</p> <p>16 Q. The drafting of the application for the</p> <p>17 warrants?</p> <p>18 A. No.</p> <p>19 Q. Making the application for the warrant to</p> <p>20 the magistrates?</p> <p>21 A. Certainly not.</p> <p>22 Q. Were you at either of the two meetings</p> <p>23 where the DPP was consulted by the</p> <p>24 investigative team?</p> <p>25 A. No, I wasn't.</p> <p style="text-align: center;">Page 23</p> |
| <p>1 MR WAGNER: Not on the issues that Sir</p> <p>2 Peter is concerned by, no.</p> <p>3 THE CHAIRMAN: Right. His concern, you</p> <p>4 understand his concern I am sure.</p> <p>5 MR WAGNER: I do.</p> <p>6 THE CHAIRMAN: Okay.</p> <p>7 MR WAGNER: I mean, I did not ask the</p> <p>8 question actually.</p> <p>9 MR SANTOS: It is a matter for the</p> <p>10 government, I think, whether it wishes for us</p> <p>11 to adopt that caution.</p> <p>12 SIR PETER CARUANA: No, I am not</p> <p>13 making that request on this occasion, but in</p> <p>14 order to avoid having to make it, I will just</p> <p>15 urge --</p> <p>16 THE CHAIRMAN: Yes, exactly. What you</p> <p>17 are doing is to urge caution. I think that is</p> <p>18 a very sensible course, if I may say so. You</p> <p>19 understand as well.</p> <p>20 A. I do.</p> <p>21 THE CHAIRMAN: Yes.</p> <p>22 A. Yes.</p> <p>23 MR WAGNER: Mr McGrail, in relation to</p> <p>24 Op Delhi, would it be fair to say that you</p> <p>25 trusted your senior officers to take</p> <p style="text-align: center;">Page 22</p> | <p>1 Q. I am going to ask you about seriousness</p> <p>2 of Op Delhi and I am going to be very</p> <p>3 careful about not treading into the forbidden</p> <p>4 lands.</p> <p>5 SIR PETER CARUANA: Just if I could,</p> <p>6 sorry to interrupt, Mr Wagner, just to be</p> <p>7 clear, he is free to do so but not in open</p> <p>8 session.</p> <p>9 THE CHAIRMAN: Yes.</p> <p>10 SIR PETER CARUANA: I just want to</p> <p>11 make it clear that he understands, it is not</p> <p>12 that he cannot, but we would have to go later</p> <p>13 into close.</p> <p>14 MR WAGNER: I agree with that, with</p> <p>15 respect. A number of witnesses have already</p> <p>16 discussed seriousness. What I am not</p> <p>17 permitted to do is to delve into the specific</p> <p>18 messages that are restricted and to describe</p> <p>19 the concern over the messages. So I will ask</p> <p>20 the questions, if I may, and I will not talk at</p> <p>21 all about the kinds of issues which the</p> <p>22 government has restricted and if there are any</p> <p>23 concerns I am very happy to stop and go into</p> <p>24 closed.</p> <p>25 SIR PETER CARUANA: Yes, and I entirely</p> <p style="text-align: center;">Page 24</p> |

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| <p>1 agree with what he says there. My point was 2 simply to mention to him that if he did want 3 to stray into those areas that he says he is not 4 going to stray into, he can do so, albeit not in 5 open session. 6 MR WAGNER: Of course I am aware of 7 that. Mr McGrail, so what I am not going to 8 ask you about is the extent of any outages or 9 whether there was one outage or more than 10 one outage. I am not going to ask you about 11 those questions and I do not want you to give 12 me any information about that. I want to ask 13 you about the risk level to Gibraltar. How do 14 you explain -- 15 THE CHAIRMAN: I am going to stop this. 16 I think this is inappropriate that these 17 questions are asked in public. 18 MR SANTOS: I think if we are going to 19 pursue this line of question -- 20 THE CHAIRMAN: Yes. 21 MR SANTOS: -- I think we are going to 22 have to go into private. 23 THE CHAIRMAN: Yes. 24 MR SANTOS: I would suggest that we 25 leave this for the end of the --</p> <p style="text-align: center;">Page 25</p> | <p>1 Q. And Mr Levy, as we know, is a senior 2 lawyer, one of Gibraltar's most senior 3 lawyers. Is that right? 4 A. That's correct. 5 Q. Mr Perez had, I think, been a Lieutenant 6 Colonel in the army. 7 A. He had been the Commanding Officer of 8 the Royal Gibraltar Regiment yes. 9 Q. He had been the Commanding Officer. 10 And then there were the individuals who 11 would potentially have benefited financially 12 if the contract had been transferred to 36 13 North as partners of Hassans. That included 14 Albert Mena, who was the Financial 15 Secretary at the time. Is that right? 16 A. Indeed. 17 Q. And of course Mr Picardo, who was the 18 Chief Minister. 19 A. That's right. 20 Q. Did all of that add an extra layer of 21 sensitivity which was not generally the case 22 in other investigations? 23 A. That is evident. That was, all the roads 24 were pointing in that direction and that 25 generated that sensitivity evidently.</p> <p style="text-align: center;">Page 27</p> |
| <p>1 THE CHAIRMAN: Once the mine is 2 exposed it is too late. Yes. 3 MR WAGNER: May I ask in this way, 4 because -- 5 THE CHAIRMAN: No. If you are going to 6 pursue this topic, you can do so -- 7 MR SANTOS: We must vacate the -- 8 THE CHAIRMAN: -- but you must do so in 9 private session. 10 MR SANTOS: And any discussion on the 11 topic I think should be done in an empty -- 12 THE CHAIRMAN: By identifying what you 13 are not going to say in fact that has precisely 14 the same effect. So just leave this alone. 15 MR WAGNER: All right. I will not ask 16 about that topic in open. Is it right to say that 17 the Op Delhi investigation was not just 18 serious but also highly sensitive because of 19 the people who were potentially implicated? 20 A. Indeed it was, yes. 21 Q. And we have heard that Mr Sanchez, who 22 was one of the suspects, was a senior civil 23 servant. Is that right? 24 A. I believe he held the post of Principal 25 Secretary to the deputy Chief Minister.</p> <p style="text-align: center;">Page 26</p> | <p>1 Q. To your knowledge, did any member of 2 the government ever exclude themselves 3 from taking decisions relating to 36 North or 4 the Op Delhi investigation because they were 5 potential financial beneficiaries of 36 North? 6 A. Not to my knowledge. 7 Q. And so presumably as far as you know 8 neither Mr Picardo or Mr Mena ever 9 excluded themselves in some way. 10 A. Not to my knowledge. 11 Q. And so when you wrote to the 12 government to request clarity on the 13 ownership issue, as far as you were 14 concerned, Mr Picardo and Mr Mena were 15 still involved in those discussions around 16 who owned the platform. 17 A. The government were making a claim 18 that they were the owners of the intellectual 19 property rights, but, um, the response I got 20 was not ... from Mr Mena was that, if my 21 memory served me right, is that he didn't 22 think that his communication with the police 23 in terms of what the police were asking him 24 to clarify was proper for him to do. 25 (10.30)</p> <p style="text-align: center;">Page 28</p> |

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| <p>1 Q. Did the Attorney General, in the many 2 discussions you had with him, ever raise the 3 Chief Minister's own involvement in setting 4 up 36 North, and its general involvement in 5 events, with you in your discussions? 6 A. I raised it with him -- 7 Q. You raised it. 8 A. -- as a matter of conc-- as a matter of 9 concern: look, this company structure's 10 supporting, or owning, 36 North exposed the 11 Chief Minister, the Financial Secretary -- 12 Q. Now -- 13 A. -- the - there was another minister, I 14 believe, and a member of the opposition, too. 15 As partners of Hassans. But, it was a - a 16 concern that I shared with him, and he 17 confirmed that he was aware of that, that it 18 concerned him, but he had asked me that: 19 look, I'm going to be - that he was going to 20 be dealing with it -- 21 Q. Okay. 22 A. -- himself. 23 Q. Dealing with it himself, what do you 24 mean by that? 25 A. That he would be addressing the matter</p> <p style="text-align: center;">Page 29</p> | <p>1 such a conversation? 2 A. No, I don't have any notes of that 3 conversation other than those that my 4 recollections go to the notes of the 12th, 5 where I put all those concerns. That's my 6 only reference, sir. I don't know whether Mr 7 Richardson has notes of that, if he was 8 present. I'm not - I'm not sure. 9 THE CHAIRMAN: Well, he has no 10 recollection of any such conversation. 11 MR WAGNER: Apart from the 7th. 12 THE CHAIRMAN: Apart from the 7th, and 13 Mr Sanchez. 14 MR WAGNER: Yes. So, may I continue? 15 THE CHAIRMAN: Yes, yes. 16 Q. So in relation to sensitivity, you took a 17 number of steps to try and preserve 18 confidentiality. I just want to discuss those 19 with you briefly. Mr Richardson in his 20 evidence said that when he became senior 21 investigating officer he say, "I had at the time 22 superintendence of the investigation. Mr 23 McGrail had wanted the investigation to be 24 kept as confidential as possible, because of 25 the implications that concern the national</p> <p style="text-align: center;">Page 31</p> |
| <p>1 himself with the individuals concerned, in - 2 in terms of either... 3 Q. Okay. 4 A. -- declare, move out - move out of - of 5 the - of these structures, and... 6 Q. Yes. 7 A. -- and - or don't get involved. That's what 8 I took from his saying that he was going to 9 deal with it. 10 Q. So, that sensitivity -- 11 THE CHAIRMAN: Can we just clear up: 12 when you said you raised these matters with 13 the Attorney General, where and when did 14 you do that? 15 A. It was one meeting that I had with him... 16 in the run-up to 12 May. I seem -- 17 THE CHAIRMAN: Wait a minute. When? 18 A. Where? 19 THE CHAIRMAN: When. 20 A. I've checked my notes, and there is no 21 specific orientation there with regards to 22 dates, but... it could potentially have been on 23 7 April, it could have been one of the other 24 previous meetings that - that I had with him. 25 THE CHAIRMAN: But, you have no note of</p> <p style="text-align: center;">Page 30</p> | <p>1 security system." Do you remember saying 2 something like that to Mr Richardson? 3 A. Of course, of course. 4 Q. And, why was it that you wanted to keep 5 the matter confidential? Well, I suppose 6 actually the previous question is: what did 7 you mean by confidential? Who did you 8 want to keep it -- 9 A. No-- normally -- 10 Q. -- confidential from? 11 A. There was con-- there's a reason - there 12 was a reason to keep it confidential, and - at 13 many levels. Normally when crimes are 14 reported we - it's - the police sometimes 15 come out and makes a media release to say 16 that they're investigating even the most 17 serious of crimes that they're investigating, 18 be it a murder or whatever. But, in this 19 occasion I asked that that was not going to be 20 the case, to go out and say that we were 21 investigating an attack on the - on the 22 national security platform. And then, 23 because of the sensitivities around the matter, 24 I wanted the inner circle of those dealing 25 with it to be as tight as possible, so as not to</p> <p style="text-align: center;">Page 32</p> |

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| <p>1 compromise the gathering of evidence or 2 whatever police activity was - was going to 3 follow. 4 Q. But it came to be, did it not (and, if we 5 could just put up C2221, please), it came to 6 be that you decided on around 11 May to 7 brief certain individuals on the investigation. 8 Just before you say anything, this here is the 9 email inviting Mr Picardo, Mr Costa, Mr 10 Llamas, Mr Mena, Mr Grech and Mr Rocca 11 to a meeting. You said, "Yesterday we 12 carried out executive action on the three ex 13 Bland employees. They are now on police 14 bail. Immediate inquiries post to our 15 intervention have revealed issues of serious 16 concern, which I require to brief you on. 17 Please advise when we could meet, the 18 sooner the better. I would also ask that the 19 request to meet is not shared with anyone 20 other than those copied in this email. You 21 have already, actually, discussed the reasons 22 for the meeting, so I am not going to ask you 23 for that. I just want to know why you asked 24 that the request to meet is not shared with 25 anyone other than those copied.</p> <p style="text-align: center;">Page 33</p> | <p>1 Mr Perez to discuss the plans before they set 2 up 36 North? 3 A. No, I was not aware at that point, no. 4 Q. Did you know at that time that the Chief 5 Minister had had conversations with Mr 6 Perez and Mr Levy about Hassans investing 7 in 36 North. 8 A. No, I wasn't - that was not prominent in 9 my information. 10 Q. Did you -- 11 A. Had - had I known -- 12 Q. I will come to that, just let me finish what 13 you did know. Did you know at the time that 14 the Chief Minister had texted two of the 36 15 North founders wishing them luck, the day 16 before they resigned from Blands? 17 A. No, I was not aware of that at the time. 18 Q. Did you know at the time that the Chief 19 Minister had been regularly updated by Mr 20 Levy after 36 North was set up about its 21 progress? 22 A. I was not aware of that. I've only got to 23 know -- 24 Q. I am just asking you: at the time. Did 25 you know at the time that the Chief Minister</p> <p style="text-align: center;">Page 35</p> |
| <p>1 A. Again, one of the suspects was the 2 Principal Secretary to the Deputy Minister 3 who dealt with the matters in hand. Mr 4 Perez, Mr Cornelia and another individual, 5 Mr Vasquez, had been arrested previously, 6 and the plan was to arrest Mr Sanchez, and to 7 obviously ex-- carry out searches, searches of 8 his office. I mean, we just felt it prudent that 9 I needed to inform the - the - those officials 10 in office that the police were - were going to 11 be attending Government House, Number 6 12 Convent Place, and - and it was only prudent 13 that I did so, and - but at the same time, we 14 didn't want any of this information to be 15 leaked to - inadvertently or otherwise, to the 16 person that we were going to be dealing with. 17 Q. Yes. So, you had decided to share some 18 limited information -- 19 A. Yes. 20 Q. -- about the investigation with those 21 individuals. Did you know at the time that 22 the Chief Minister had involvement in the 23 setting up of 36 North? 24 A. No. 25 Q. No. Did you know that he had met with</p> <p style="text-align: center;">Page 34</p> | <p>1 had been informed by Mr Levy in August 2 2018 that Mr Cornelio would retain access to 3 the NSCIS, despite telling Blands that he 4 would not have access? 5 A. I came to know about that later, but at the 6 time of that meeting I wasn't aware. Clearly, 7 not aware. 8 Q. Had you known those facts at the time -- 9 A. That -- 10 Q. -- would you have also -- 11 A. I - can you ask - I am just rethinking on 12 the last point. 13 Q. Yes. 14 A. Whether - let me see if I understood your 15 question right. Whether the Chief Minister - 16 whether I knew on 13 May 2019 -- 17 Q. Yes. 18 A. -- whether the Chief Minister had 19 instructed that Mr Sanchez did-- was 20 excluded from - from the - the platform. Is 21 that - was that the question? 22 Q. Mr Cornelio. 23 A. Oh, sorry, Mr Cornelio. 24 Q. Well, no, it was whether you knew that 25 Mr Levy had messaged the Chief Minister to</p> <p style="text-align: center;">Page 36</p> |

1 say: well, despite --
 2 **A. No, I did not know about that --**
 3 Q. No, you did not know that.
 4 **A. -- but - but I cannot be certain about**
 5 **knowing whether Mr --**
 6 Q. Yes.
 7 **A. -- Picardo gave instructions to exclude**
 8 **Mr Cornelio from access. I cannot be**
 9 **certain.**
 10 Q. That is a different point. If you had
 11 known those facts at the time, would you
 12 have invited the Chief Minister to this
 13 meeting?
 14 **A. That would have given me cause --**
 15 SIR PETER CARUANA: I am afraid my
 16 learned friend is asking questions based on...
 17 The witness has said that he did not know,
 18 and now he is going to ask him the
 19 hypothetical question of: what would have
 20 been his position if he had known. It is not
 21 the witness's evidence that he did know, this
 22 is just getting allegations out here. The
 23 witness has given no such evidence, and it is
 24 completely inappropriate for him to be asked
 25 what he might have done if he had known; he

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1 on, I should not be in this meeting, I have
 2 had background in relation to 36 North.
 3 **A. No. What he said was that the Governor**
 4 **would be making - supporting a complaint on**
 5 **the matter. No, he never excluded himself in**
 6 **that way.**
 7 Q. And did either Mr Picardo, or indeed the
 8 Attorney General who was advising the
 9 Government, approach you at any time
 10 afterwards and say words to the effect of: on
 11 reflection, because of Mr Picardo's
 12 involvement we cannot be involved in any
 13 more briefings of that kind.
 14 **A. No. It's... In the - in the case of the**
 15 **Attorney General, which at the time I did not**
 16 **think odd, it was that he would be inquisitive**
 17 **in asking me questions about Delhi, and how**
 18 **things were going, and - and how evidence**
 19 **was coming out, and expressing concerns.**
 20 Q. So, it was the opposite --
 21 **A. Yes.**
 22 Q. -- that in fact, he was (?) asking questions
 23 about it. I want to now ask you about Mr
 24 Levy's status as a person of interest. Just
 25 turning to A274, please.

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1 did not know.
 2 THE CHAIRMAN: I do not agree; I think
 3 the question is reasonable.
 4 Q. So, I will ask the question again. If you
 5 had known all of that background, would you
 6 have invited Mr Picardo to that meeting to
 7 brief him on what was happening in the
 8 investigation?
 9 **A. I think that would have caused me to**
 10 **rethink what I - what I would have imparted,**
 11 **if anything, I would have imparted, or I**
 12 **would have gone around it a different way.**
 13 Q. Yes.
 14 **A. The consideration was still there that I**
 15 **had - that the officers still had to go to**
 16 **Number 6, which is the office of the Chief**
 17 **Minister, albeit the Deputy Chief Minister, so**
 18 **I would have probably - it would have had a -**
 19 **it certainly would have had a - a considerable**
 20 **impact on the way I would have addressed**
 21 **the matter, yes.**
 22 Q. Yes. You may not remember this,
 23 because it was five years ago, but do
 24 remember if at any point in the meeting Mr
 25 Picardo said anything to the effect of: hold

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1 THE CHAIRMAN: Well, first of all: is there
 2 such a status as a "person of interest"? Mr
 3 Richardson, or perhaps it was Mr Wyan, said
 4 that there was not.
 5 **A. I - I don't tend to agree with him; I**
 6 **believe that there is. And - but Mr Wyan is -**
 7 **is app-- taking the approach of a - a more**
 8 **rigid approach, which sometimes in police**
 9 **investigations works favourably, because you**
 10 **- you've got the boundaries really clearly set.**
 11 **I don't necessarily agree with his not**
 12 **believing that there is the status of a person**
 13 **of interest. I - I draw the analogy with:**
 14 **there's heaven and there's hell, but in between**
 15 **there's purgatory. And, there's some grey**
 16 **area around that individual that needs to be**
 17 **addressed.**
 18 THE CHAIRMAN: Is this some...
 19 **A. Analogy. Analogy between: there -**
 20 **there's heaven and hell, and then there's**
 21 **purgatory in between, and that's where Mr**
 22 **Levy potentially featured.**
 23 Q. At that time?
 24 **A. Yes.**
 25 Q. In 2019?

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1 **A. Yes.**
 2 Q. So, if we could just look at A274, please.
 3 Here we go. And, paragraph 17 to 18. Now,
 4 we will obviously have to clarify with Mr
 5 Llamas whether he was indeed at that
 6 meeting, but he gives an account of it. He
 7 says, "That meeting took place on 13 May
 8 2019. During the meeting Mr McGrail stated
 9 that the investigation concerned the
 10 suspected hacking of the National Security
 11 Central Intelligence System ('NSCIS
 12 platform')". You referred to the three
 13 suspects at the time, that Mr Sanchez was a
 14 civil servant. If we could just scroll down to
 15 18, please. "Mr McGrail explained that the
 16 case revealed that very serious failures had
 17 occurred with regard to the operation", I will
 18 not read that out, "He also explained that the
 19 investigation covered a company, '36 North
 20 Limited', formed by Messrs. Cornelio and
 21 Perez for the suspected purpose of taking
 22 over from Bland Ltd the provision of the
 23 NSCIS platform service to the Government.
 24 Mr McGrail confirmed that the law firm
 25 'Hassans', the partners of which include the

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1 Chief Minister, held shares in that company.
 2 He also said that Mr James Levy CBE QC,
 3 the senior partner of Hassans, was mentioned
 4 in communications with the three suspects
 5 and that he was potentially a person of
 6 interest to the investigation." So, first
 7 question is: does that accord with your
 8 memory of the meeting?
 9 **A. It does, yes.**
 10 Q. And, whether or not 'person of interest' is
 11 a formal status, it is something that seems to
 12 have been mentioned by you at that meeting.
 13 **A. Yes.**
 14 Q. Now, if you can help us with this then do,
 15 but if you cannot then do not. When you
 16 informed the meeting of Mr Levy's status, on
 17 13 May, do you know how long the
 18 investigators had been looking into Mr
 19 Levy's involvement?
 20 **A. I can't be certain with that, but what**
 21 **triggered that meeting, according to my**
 22 **recollection, is that the preliminary**
 23 **examination of devices seized --**
 24 Q. Yes.
 25 **A. -- reaped certain results --**

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1 Q. Yes.
 2 **A. -- in terms of --**
 3 Q. Yes, but that had only been a couple of
 4 days earlier.
 5 **A. That's right.**
 6 Q. Yes. So, the arrests and the obtaining of
 7 their devices had only happened, I think, on
 8 the 10th.
 9 **A. Yes.**
 10 Q. And, this was five days later.
 11 **A. It could well be that the - the team had**
 12 **more knowledge about Mr Levy because of**
 13 **what had been communicated by the letter of**
 14 **complaint. I can't remember, it was a very**
 15 **long letter --**
 16 Q. Yes.
 17 **A. -- but I can't - if - if there's any reference**
 18 **to Mr Levy there, that maybe would have**
 19 **informed the investigating team's decisions.**
 20 Q. But, I think it was also Mr Richardson's
 21 evidence that it was when they started
 22 looking at the devices they found more
 23 correspondence --
 24 **A. I - I --**
 25 Q. -- between, I think he said something to

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1 the effect of: we realised the extent of Mr
 2 Levy's involvement, because there were
 3 messages back and forth between him and
 4 the current suspects. Does that fit with what
 5 you remember, as well?
 6 **A. I can't be certain, a hundred percent.**
 7 Q. No, because you were not directly
 8 involved. Now, A233, and this is one of the
 9 Chief Minister's statements, paragraph two to
 10 three, please. Oh, sorry, must be the page
 11 before. And if we go, sorry, further down.
 12 Yes, so at paragraph five it says, "I recall that
 13 I discussed with Mr James Levy KC on a
 14 very large number of occasions the fact that
 15 the RGP had suggested that he might be a
 16 person of interest in the investigation. He
 17 raised this with me constantly when I spoke
 18 to him on other matters. I consistently
 19 replied to him that I was sure that the
 20 investigation would exonerate him given
 21 that, from what I knew of him, I was sure
 22 that he would not have acted in a manner
 23 which was contrary to law." Now, just to
 24 clarify this, is it your understanding that you
 25 informed Mr Picardo that Mr Levy was a

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| <p>1 person of interest on 13 May 2019?</p> <p>2 A. Yes, I can confirm that, yes.</p> <p>3 Q. A190, please, and paragraph 39. Mr</p> <p>4 Picardo says there, "In the context of</p> <p>5 operation Delhi, I became aware from Mr</p> <p>6 Levy himself that he was one of the persons</p> <p>7 who was 'of interest' to investigators." When</p> <p>8 you informed Mr Picardo that Mr Levy was a</p> <p>9 person of interest, did he say anything about</p> <p>10 already knowing that?</p> <p>11 A. No.</p> <p>12 Q. No. If we turn, please, now to C4766.</p> <p>13 Penultimate paragraph, please. This is the</p> <p>14 letter of 5 June 2020 that Mr Picardo sent to</p> <p>15 the GPA. And he says, this is in relation to</p> <p>16 the WhatsApp that he received from you on</p> <p>17 12 May which said, "in relation to the case</p> <p>18 against Perez, Cornelio & Sanchez" we are</p> <p>19 going to do a search warrant against Mr</p> <p>20 Levy. He says then, "When I expressed the</p> <p>21 view that I did nine minutes later, I had no</p> <p>22 reason to believe the investigation was of Mr</p> <p>23 Levy." Now...</p> <p>24 A. That is a completely contradictory</p> <p>25 position.</p> <p style="text-align: center;">Page 45</p> | <p>1 onwards. You were asked about whether you</p> <p>2 had concerns about the six letters from</p> <p>3 Hassans, and I just want to drill down into</p> <p>4 exactly what those concerns were. Just by</p> <p>5 way of background, if a claim was brought</p> <p>6 against the RGP, or threatened, does the RGP</p> <p>7 have an internal legal department who can</p> <p>8 assist --</p> <p>9 A. No.</p> <p>10 Q. -- and defend them.</p> <p>11 A. No, we haven't. They - no, they have no -</p> <p>12 it doesn't have that.</p> <p>13 Q. Does it have a lawyer who can --</p> <p>14 A. I has a dual (?) the Crown - Crown</p> <p>15 Counsel for criminal matters, not for any</p> <p>16 claim - matter.</p> <p>17 Q. Not for judicial review?</p> <p>18 A. No, sir.</p> <p>19 Q. No.</p> <p>20 A. Certainly not.</p> <p>21 Q. So, would you therefore rely on the law</p> <p>22 officers, particularly the DPP and the AG, to</p> <p>23 advise and defend you against such --</p> <p>24 A. That - that has historically been the case</p> <p>25 and my understanding. Any civil claims filed</p> <p style="text-align: center;">Page 47</p> |
| <p>1 Q. Is it your understanding that he did have</p> <p>2 reason to believe --</p> <p>3 A. Of course.</p> <p>4 Q. -- and had for a year or so, for exactly a</p> <p>5 year.</p> <p>6 A. He had, yes.</p> <p>7 Q. That the investigation was of Mr Levy.</p> <p>8 Just in relation to what Mr Levy knew, to</p> <p>9 your knowledge did anyone in the RGP</p> <p>10 inform Mr Levy that he was a person of</p> <p>11 interest prior to the search warrant attempting</p> <p>12 to be executed on 12 May 2020?</p> <p>13 A. I don't think that would have - I don't</p> <p>14 think that was the case. If - if it had been I'm</p> <p>15 sure that I would have been told, and I</p> <p>16 wasn't.</p> <p>17 Q. And do you have any knowledge, if it's</p> <p>18 correct, what the Chief Minister says: that he</p> <p>19 had been discussing Mr Levy's status as a</p> <p>20 person of interest many times before 12 May</p> <p>21 2020. Do you have any knowledge how Mr</p> <p>22 Levy came to know that?</p> <p>23 A. No.</p> <p>24 Q. I want to ask you now about the Hassans</p> <p>25 letters that were received from 12 May 2020</p> <p style="text-align: center;">Page 46</p> | <p>1 against the RGP has been handled by the</p> <p>2 office - the AG's chambers before the DPP</p> <p>3 came into play.</p> <p>4 Q. And, in those meetings that took place on</p> <p>5 13, 15 and 20 of May with the DPP and the</p> <p>6 AG, did you get the impression that you</p> <p>7 could rely on the DPP and the AG to robustly</p> <p>8 defend the RGP against those letters from</p> <p>9 Hassans?</p> <p>10 A. I didn't get the strong impression, no.</p> <p>11 There was a debate, and it was raised by Mr</p> <p>12 Richardson that we were now dealing with a</p> <p>13 very forceful legal team in Hassans, headed</p> <p>14 by Mr Baglietto, King's Counsel, and there</p> <p>15 was a potential mismatch between police</p> <p>16 having to respond to letters with King's</p> <p>17 Counsel.</p> <p>18 Q. So, would it be fair to say this was not</p> <p>19 just an ordinary situation, where you could</p> <p>20 rely on strong backup from those above you?</p> <p>21 A. Well, because of what had happened on</p> <p>22 the 12th there was already a - a negative</p> <p>23 vibe, that according to the AG we had put our</p> <p>24 foot in it, and we'd acted wrongly, and were</p> <p>25 in a mess. That's not the type of support I</p> <p style="text-align: center;">Page 48</p> |

12 (Pages 45 to 48)

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| <p>1 would have expected.</p> <p>2 Q. And when you say "what had happened</p> <p>3 on the 12th" of May, do you mean the</p> <p>4 meeting between you, the Chief Minister and</p> <p>5 the Attorney General?</p> <p>6 A. The rebuke, yes.</p> <p>7 Q. Yes. Turning to the DPP's advice on Op</p> <p>8 Delhi. Mr Richardson sent the DPP a</p> <p>9 detailed National Decision Model document</p> <p>10 and asked for advice, is that right?</p> <p>11 A. Yes.</p> <p>12 Q. Yes. And, it appears from the evidence</p> <p>13 that the DPP provided his advice entirely</p> <p>14 orally, not in writing. Was that the usual</p> <p>15 practice?</p> <p>16 A. I've - I've been used to receiving Crown</p> <p>17 Counsel advice on - in writing, but I don't</p> <p>18 know the - the circumstances, I believe it was</p> <p>19 held - a videoconference call was held, and</p> <p>20 very abnormal cir-- situation of the pandemic</p> <p>21 around. I do not know what Mr Richardson</p> <p>22 said, whether he made the request saying this</p> <p>23 in writing, so not being there is - is...</p> <p>24 THE CHAIRMAN: I think you were being</p> <p>25 asked about the usual practice. I have a</p> <p style="text-align: center;">Page 49</p> | <p>1 THE CHAIRMAN: I am not really thinking</p> <p>2 about email, that seems a very trivial way of</p> <p>3 dealing with it. I mean, I would have</p> <p>4 expected --</p> <p>5 A. A letter.</p> <p>6 THE CHAIRMAN: -- counsel to be</p> <p>7 instructed to provide a detailed written</p> <p>8 advice, but that does not seem to have</p> <p>9 happened.</p> <p>10 A. I agree. Unfortunately, I cannot offer you</p> <p>11 any - any explanation, because I did not</p> <p>12 probe the reasoning as to whether there was</p> <p>13 written advice or not.</p> <p>14 THE CHAIRMAN: You are saying that that</p> <p>15 is the usual practice in Gibraltar, if you had a</p> <p>16 serious case?</p> <p>17 A. Yes, absolutely. Absolutely. It's - it goes</p> <p>18 into the decision making, and it's part of the -</p> <p>19 the - the support mechanism for any</p> <p>20 particular investigation, that you have those</p> <p>21 decisions in - in writing, or even if you - at</p> <p>22 the extreme, in terms of police recording</p> <p>23 abilities, you write it all up and you all sign it</p> <p>24 together as in agreement, but I would have</p> <p>25 expect in a level of this investigation to - for</p> <p style="text-align: center;">Page 51</p> |
| <p>1 criminal background; I have spent my life</p> <p>2 doing criminal cases. When faced with a</p> <p>3 high-profile case like this --</p> <p>4 A. You would want it in writing, sir.</p> <p>5 THE CHAIRMAN: There you go. I mean,</p> <p>6 exactly. That does not seem to have</p> <p>7 happened.</p> <p>8 A. No.</p> <p>9 THE CHAIRMAN: Did that strike you as</p> <p>10 being odd?</p> <p>11 A. Well, if they didn't know whether he'd</p> <p>12 been ha-- it had happened or not, I - I didn't</p> <p>13 probe Mr Richardson to say --</p> <p>14 THE CHAIRMAN: You have experience of</p> <p>15 criminal cases in Gibraltar; I do not.</p> <p>16 A. Yes.</p> <p>17 THE CHAIRMAN: Was it the usual practice</p> <p>18 in Gibraltar, when faced with a high-profile</p> <p>19 case --</p> <p>20 A. No, that would not have been --</p> <p>21 THE CHAIRMAN: -- to get written advice</p> <p>22 from Crown Counsel?</p> <p>23 A. Yes, it would - it would have been. Even</p> <p>24 in email: I'd strongly support this, or I agree</p> <p>25 with this part or not, so I wouldn't --</p> <p style="text-align: center;">Page 50</p> | <p>1 it to have been in writing, yes.</p> <p>2 THE CHAIRMAN: Yes, thank you.</p> <p>3 Q. I want to ask you about the advice itself,</p> <p>4 and what people understood to have been the</p> <p>5 advice. And particularly this, if we go to</p> <p>6 A1297, paragraph 13. This is actually about</p> <p>7 when the Attorney General asked the DPP,</p> <p>8 after your meeting on the 12th, what --</p> <p>9 A. Sorry, whose statement is this?</p> <p>10 Q. Sorry, excuse me. This is the DPP's</p> <p>11 statement.</p> <p>12 A. Okay.</p> <p>13 Q. First statement. He says, "after the</p> <p>14 execution of the search warrant I was called</p> <p>15 by the Attorney General and was asked by</p> <p>16 him whether I had advised the RGP on the</p> <p>17 use of a search warrant in this case."</p> <p>18 A. I don't know where you are, sorry Mr</p> <p>19 Wagner.</p> <p>20 Q. Ah, I'm sorry. So --</p> <p>21 THE CHAIRMAN: Halfway through</p> <p>22 paragraph 13.</p> <p>23 Q. Yes.</p> <p>24 A. Okay.</p> <p>25 Q. The second line of paragraph 13. "I was</p> <p style="text-align: center;">Page 52</p> |

1 called by the Attorney General and was asked
 2 by him whether I had advised the RGP on the
 3 use of a search warrant in this case. I
 4 informed him that my advice had not been
 5 sought and that it was unlikely that they
 6 would ever do so in such circumstances as
 7 these were operational matters for the RGP."
 8 And then, if we could just go to B112, please.
 9 This is the 13 May meeting, when this is
 10 being discussed by the AG (sic) and the
 11 Attorney General. Just in the second box,
 12 picking it up three lines down. This is the
 13 DPP, "Whether I think, and again I've always
 14 made it clear to Paul and you, I don't get
 15 involved in operational matters. My view
 16 that the warrant should come at all post-
 17 interview. Look, there is an operational
 18 matter for you on the ground, and therefore"
 19 something.
 20 **A. It says "My view was", so that suggests**
 21 **that the warrant was discussed.**
 22 Q. Oh yes, I see. But he is saying there,
 23 again: I don't advise on operational matters.
 24 **A. That's right. But it's clear, and - and that's**
 25 **- that there was discussion on whether (?) a**

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1 **warrant.**
 2 Q. Well, I think that is what Mr Richardson
 3 and Mr Wyan both say. Was it ever your
 4 understanding that the DPP had strongly
 5 advised against applying for a search
 6 warrant?
 7 **A. No. My understanding was that he -**
 8 **although he did not advise on operational**
 9 **matters --**
 10 Q. Yes.
 11 **A. -- but that the route of the warrant, he**
 12 **would stand up and defend it.**
 13 Q. Okay. Now if we can turn to B147,
 14 please. Sorry, B1417, that was my mistake.
 15 Thank you. These are text messages between
 16 Mr Llamas and Mr Picardo on 12 May.
 17 15.41, the second one down, Mr Llamas to
 18 Mr Picardo, "Spoken to DPP, he is
 19 categorical that whilst he told the RGP that
 20 an interview with JL would likely be
 21 necessary he strongly advised against a
 22 search warrant." Do you have any idea
 23 where this idea that the DPP "strongly
 24 advised against a search warrant" came
 25 from?

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1 (11.00)
 2 **A. I haven't got the foggiest of that.**
 3 Q. Because it doesn't fit with what I read to
 4 you from the DPP's statement, does it?
 5 **A. No.**
 6 Q. And it doesn't fit with what the DPP were
 7 saying in that meeting that you attended on
 8 13 May.
 9 **A. Or indeed with Mr Richardson's**
 10 **recollection.**
 11 Q. And I won't take you to it, but it doesn't
 12 even fit with what the Attorney General says
 13 in his witness statement either.
 14 THE CHAIRMAN: I do not think this
 15 witness can really help us with that because
 16 he was not a party to it.
 17 MR WAGNER: No. If we can just go to --
 18 THE CHAIRMAN: I am not saying the
 19 point is not worth pursuing, but it is not
 20 worth pursuing with this witness.
 21 MR WAGNER: Understood. B5419 please.
 22 This is the Hassans's letter dated 15 May.
 23 This is the letter that was received was it at
 24 the meeting of 15 May, that it just arrived --
 25 **A. Potentially it was, yes.**

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1 Q. -- or just before. It was discussed at that
 2 meeting, wasn't it, on 15 May?
 3 **A. Yes.**
 4 Q. And if we can just go down to the bottom
 5 of that page, it says there at the end of the
 6 paragraph, "There can be little surprise that,
 7 as we believe to be the case, the DPP advised
 8 the Commissioner against the making of
 9 these applications." Do you have any idea,
 10 and I do not want you to speculate, where
 11 Hassans got the idea that the DPP advised the
 12 Commissioner against the making of these
 13 applications?
 14 **A. I think that attracted an element of**
 15 **surprise and shock at the meeting, because**
 16 **everybody --**
 17 Q. I am not going to ask you about -- I am
 18 actually going to ask you the next question is
 19 about what happened at the meeting, but do
 20 you know how they got that information?
 21 **A. No.**
 22 Q. Now, was it ever put to you at the time
 23 that the DPP -- so this is before you retired --
 24 was it ever said to you the DPP strongly
 25 advised against the warrant?

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| <p>1 A. No, I was not told that. What I was told 2 was in the letter, in Mr Picardo's letter to the 3 GPA, that the DPP had also lost confidence 4 in me, which I found very surprising and 5 shocking. 6 Q. And I am sure it is the case that you 7 didn't know about that text message? 8 A. Absolutely not. 9 Q. No. When did you become aware of that 10 text message? 11 A. When it was disclosed. 12 Q. In this Inquiry? 13 A. Yes. 14 Q. Yes. If you had known that that 15 information had been provided somehow to 16 the Chief Minister, this idea the DPP had 17 strongly advised against the search warrant, 18 would that have helped you navigate what 19 was happening to you at the time? 20 A. I don't understand. 21 THE CHAIRMAN: I don't understand the 22 question either. 23 MR WAGNER: Sorry, because you refer on 24 a few occasions that you found it very 25 difficult to resolve the difficulty you were</p> <p style="text-align: center;">Page 57</p> | <p>1 just want to ask you about it. You decided 2 that, on reflection, having spoken to your 3 senior management team, that it would not be 4 appropriate for the Commissioner of Police 5 and the Attorney General to meet with 6 counsel representing a person under 7 investigation and discuss matters concerning 8 a live investigation which may be subject to 9 legal challenge at late dates. If we just go a 10 little bit further up, you sent that email to the 11 Attorney General on the 13th at 11.27. He 12 responded, "With all due respect, I can 13 formulate my own view on what is or is not 14 appropriate. Be that as it may, yes, we 15 should meet. The DPP copied would also be 16 present." Did he tell you then on the 13th or 17 at any time before you met on the 15th, that 18 he was going to meet Mr Levy's lawyer? 19 A. Not at that time. I took it that he had 20 accepted, albeit that he was asserting that he 21 would determine what was appropriate or 22 not, and that sentence showed the atmosphere 23 that was there already. 24 Q. Yes. 25 A. The question of "I will determine what is</p> <p style="text-align: center;">Page 59</p> |
| <p>1 having about the DPP's advice, if you had 2 known at the time that the Chief Minister had 3 been told that the DPP strongly advised 4 against the search warrant, would that have 5 helped you to be able to answer the criticism 6 of you? 7 A. What I was told was that the Chief 8 Minister -- by the Attorney General was that 9 they said that I had told them that the DPP 10 had advised, and when I offered the 11 explanation, he said, "Well, it's best that 12 you've explained it because he was going to 13 call him." So, the Attorney General inferred 14 that the Chief Minister would be calling the 15 DPP direct and that is contained in the 16 transcript. So, I felt that I had offered a 17 sufficient explanation to the Attorney 18 General, which he seemed to have accepted. 19 Q. But I think it is right to say that you didn't 20 speak to the Chief Minister again? 21 A. No. 22 Q. After 12 May? 23 A. That was it. 24 Q. No. B1910 please, just a little bit further 25 down, this was discussed briefly yesterday. I</p> <p style="text-align: center;">Page 58</p> | <p>1 appropriate or not" is quite asserting over a 2 matter which, even the DPP agreed with me, 3 the Attorney was wrong. 4 Q. Yes, it is quite a sharp response, isn't it? 5 A. It is, very sharp. 6 Q. C6806 please. These are text messages 7 between Mr DiVincenzi and Mr Llamas. If 8 we go to the bottom, this is on 14 May. 9 Lloyd DiVincenzi, Lewis, and another gent is 10 here to see you. Moshe Levy is the other 11 gentleman. Moshe Levy is of course another 12 Hassans's lawyer. I am not sure he was a 13 partner at the time but he is the son of Mr 14 Levy. 15 A. Mhmm. 16 Q. And we will just assume for these 17 questions that Lewis is Lewis Baglietto, Mr 18 Llamas can clarify whether that is the case or 19 not. Were you aware at the time, so on the 20 14th, that if Mr Llamas met with Mr 21 Baglietto and Moshe Levy? 22 A. I was not aware that they were meeting, 23 but I had the suspicion lingering that Mr 24 Llamas was having some form of 25 communication with Hassans.</p> <p style="text-align: center;">Page 60</p> |

15 (Pages 57 to 60)

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| <p>1 Q. But he didn't tell you that?</p> <p>2 A. He didn't, but the tenor of his</p> <p>3 interventions in the --</p> <p>4 Q. Later, yes. So, I think it's right to say that</p> <p>5 yesterday you said there was something of a</p> <p>6 progression in the meetings and, correct me</p> <p>7 if I am wrong, that on 13 May there was still</p> <p>8 a general intention to follow through with the</p> <p>9 interview under caution and to inspect the</p> <p>10 phone, is that right?</p> <p>11 A. That's correct.</p> <p>12 Q. But that then shift, you said yesterday, on</p> <p>13 15 May, when things changed. Is that right?</p> <p>14 A. When the problems -- when the Attorney</p> <p>15 General started the emphasis on the problems</p> <p>16 that Hassans had, which was the interview</p> <p>17 under caution, the examination of the</p> <p>18 devices, the status of suspect, and that is</p> <p>19 when I got the impression that where's he</p> <p>20 getting all this from?</p> <p>21 Q. Yes. And you were asked by Mr</p> <p>22 Caruana, by Sir Peter sorry, yesterday and</p> <p>23 you agreed, you were asked was it your</p> <p>24 understanding that Mr Llamas and Mr Rocca</p> <p>25 were giving advice to the RGP at this</p> <p style="text-align: center;">Page 61</p> | <p>1 told Mr Llamas? I think they've had a lot of</p> <p>2 confusion over that from the beginning."</p> <p>3 Carry on, Mr Richardson, "That clearly</p> <p>4 might be the case, but this is a QC accusing</p> <p>5 the Commissioner of Police of acting</p> <p>6 unlawfully because he has gone against the</p> <p>7 advice of the DPP." Mr Rocca, "I picked that</p> <p>8 up." Chief of Police, "Can we go back to a</p> <p>9 couple of instances." Mr Llamas, "That's an</p> <p>10 assumption that they're making." Mr</p> <p>11 Richardson, "So how can a QC just throw</p> <p>12 that out saying that the Commissioner of</p> <p>13 Police had acted unlawfully?" Mr Rocca,</p> <p>14 "It's almost worse than that. It's kind of</p> <p>15 possibly suggests that I have spoken to Lewis</p> <p>16 Baglietto, which I haven't." You say, "That's</p> <p>17 my question. My question is ..."</p> <p>18 Superintendent Richardson, "Where has it</p> <p>19 come from? It wasn't aired in court." Mr</p> <p>20 Llamas, "It must come from the conversation</p> <p>21 with Ian and the Chief Minister." Now, at</p> <p>22 that time Mr Rocca is saying, "Look, this</p> <p>23 suggests, makes it sound like I have spoken</p> <p>24 to Mr Baglietto but I haven't", and Mr</p> <p>25 Llamas is saying, "Well, there's a bit of</p> <p style="text-align: center;">Page 63</p> |
| <p>1 meetings about how to handle these requests</p> <p>2 from Hassans, is that right, just firstly?</p> <p>3 A. We needed the support and advice, of</p> <p>4 course. It was now, as I say, the police</p> <p>5 dealing with King's Counsel.</p> <p>6 Q. Yes. So when Mr Llamas was giving that</p> <p>7 advice, did he at any point on the 15th</p> <p>8 mention whether he had met with Mr</p> <p>9 Baglietto and Mr Levy's son the previous</p> <p>10 day?</p> <p>11 A. No.</p> <p>12 Q. If we can show B276, fourth box from</p> <p>13 the bottom please, final line. Now, this is on</p> <p>14 15 May, the meeting, and here there is a</p> <p>15 discussion of the letter of 15 May that we</p> <p>16 went to before and about that section of the</p> <p>17 letter where it said, "and it's our belief that</p> <p>18 the Commissioner was advised against the</p> <p>19 warrant by the DPP." Superintendent</p> <p>20 Richardson, the final line of that big box,</p> <p>21 "There's even a suggestion here that you</p> <p>22 advised us not to obtain a warrant." Mr</p> <p>23 Rocca, "I read that." Mr Richardson, "We</p> <p>24 didn't say that. We didn't agree to that.</p> <p>25 Now, where has that come from? Who has</p> <p style="text-align: center;">Page 62</p> | <p>1 confusion about that. It must have come</p> <p>2 from the meeting with the Chief Minister."</p> <p>3 Did he at any point then or in the entire</p> <p>4 meeting as far as you remember it, or even</p> <p>5 straight after the meeting, did he say,</p> <p>6 "Actually, I've been meeting ... I've met with</p> <p>7 Mr Baglietto"?</p> <p>8 A. No.</p> <p>9 Q. "And discussed these matters with Mr</p> <p>10 Baglietto and Moshe Levy"?</p> <p>11 A. He never mentioned that.</p> <p>12 Q. And yet he continued to offer his advice</p> <p>13 as Attorney General without telling you that.</p> <p>14 Does that cause you concern?</p> <p>15 A. I think my response to that statement by</p> <p>16 Mr Llamas says it all.</p> <p>17 Q. What do you mean, sorry?</p> <p>18 A. The next box in that part of the transcript</p> <p>19 says it all.</p> <p>20 THE CHAIRMAN: Sorry, which box?</p> <p>21 MR WAGNER: Do you mean --</p> <p>22 A. Shall I carry on.</p> <p>23 Q. Do you mean, "Then we're talking big</p> <p>24 stuff here."?</p> <p>25 A. Yes, "We're talking big stuff."</p> <p style="text-align: center;">Page 64</p> |

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| <p>1 Q. My Spanish isn't as good as Sir Peter 2 Caruana's. What does that mean "entonce" 3 from there? 4 A. That we're talking big stuff here. We are 5 talking ... when Hassans is supposedly aware 6 of advice, alleged advice that the DPP has 7 given, and those personalities in the meeting 8 are saying that none of them have imparted 9 that information, that is what I refer, "We're 10 talking big stuff here", but my reaction, you 11 ask about my reaction, and I just tell them 12 flat out "I've been sold out". 13 Q. Yes. Just staying in this document, B272, 14 fourth box down please. Mr Llamas, just 15 picking it up about six lines from the bottom 16 of that box where it says "As you know", he 17 says, "As you know I'm learning criminal law 18 procedure on the hoof myself, with a very 19 good teacher if I may say so and I am just ... 20 I do not want this to explode." I just want to 21 ask you about that comment, and obviously I 22 am not asking you about what Mr Llamas's 23 state of knowledge was, but was it usual that 24 Mr Llamas would advise the RGP on 25 criminal matters?</p> <p style="text-align: center;">Page 65</p> | <p>1 and that file was perused by Mr Llamas, who 2 himself instructed UK counsel. 3 Q. Okay. 4 A. Because there was strong -- I think it's 5 important -- because there was strong 6 inference that there was going to be potential 7 discontinuation there. The UK counsel 8 returned that there was strong evidence, well 9 there was evidence sufficient to take to trial. 10 THE CHAIRMAN: We are rather straying 11 from the point I think. 12 A. The point is that that was the only case 13 afterwards. That was the only case -- that 14 was the only serious case that he reviewed. 15 MR WAGNER: Yes, so this is the second 16 case in your knowledge? 17 A. This is the second case in five or six 18 years, yes. 19 Q. Just a brief question about the notice of 20 topic sent to Mr Levy. B5392 -- no, this can't 21 be right. B5392, this is the letter that was 22 handed to Mr Levy, "The topic areas we seek 23 to explore in formal interview under caution 24 include but are not limited to ... 9. 25 Communication with the Chief Minister in</p> <p style="text-align: center;">Page 67</p> |
| <p>1 A. Certainly not. 2 Q. Before this investigation? 3 A. No. 4 Q. Who would be the point of contact with 5 the RGP? 6 A. The DPP. 7 Q. The DPP. 8 A. Or his Crown Counsel. 9 Q. So, would you say it was unusual that Mr 10 Llamas was taking an interest and advising in 11 this investigation. 12 A. I know in all fairness to him, I know that 13 he'd also expressed an interest in another 14 serious case. 15 Q. Yes, but that is one other. 16 A. I think it's pertinent because I wouldn't 17 have responded in this way, but I think it is 18 very pertinent, just to show how -- and he 19 communicated through the DPP that he 20 would want to peruse serious cases. This 21 was way before this matter -- I wasn't even 22 Commissioner then, I think I was a 23 superintendent. He perused, he requested the 24 file on an indictment of rape relating to a 25 personal friend of the then Minister of Justice</p> <p style="text-align: center;">Page 66</p> | <p>1 relation to any of the above." Then if we can 2 turn to B3302, there you can see number 9, 3 "Communication with any other person in 4 relation to the above." Do you recall why it 5 was that the Chief Minister's -- well, that the 6 words "Chief Minister" were taken out of this 7 letter? 8 A. Yes, there was strong resentment from 9 the Attorney General that his name or that his 10 title had been mentioned there and he felt 11 that that was potentially causing an issue in 12 terms of protect the reputation of the 13 officeholder. 14 Q. I now want to ask you about the -- 15 THE CHAIRMAN: We have probably been 16 told this but I have forgotten, when was that 17 list drawn up, the revised list? 18 A. I would have to refer to the top of the 19 page and maybe it's stated. 12 May, well 12 20 May is that. I don't think that -- yes, 12 May. 21 MR WAGNER: It may be that the letter was 22 edited but the date was not edited. 23 A. The notice was issued on 12 May. Now 24 the content when it was put on -- 25 THE CHAIRMAN: That was the first</p> <p style="text-align: center;">Page 68</p> |

17 (Pages 65 to 68)

1 notice.
 2 **A. Yes.**
 3 MR SANTOS: Can we go back one page,
 4 please.
 5 MR WAGNER: So it was the 14th. So you
 6 sent, "Gents, please see the attached revised
 7 pre-interview disclosure." Thank you very
 8 much, Mr Santos.
 9 THE CHAIRMAN: Thank you.
 10 MR WAGNER: So, do you recall sending
 11 that email to Mr Richardson and Mr Wyan?
 12 **A. I don't recall the email, obviously I recall**
 13 **it now having seen it, but I knew that I'd**
 14 **asked them to alter the pre-interview**
 15 **disclosure.**
 16 THE CHAIRMAN: So, it must have been
 17 sent after the meeting on the 13th?
 18 **A. Yes, definitely.**
 19 THE CHAIRMAN: OR the meeting on the
 20 15th?
 21 MR WAGNER: Yes.
 22 **A. Yes, yes. You are right, sir.**
 23 Q. And it's in the meeting of the 13th -- I
 24 will not take you to it.
 25 SIR PETER CARUANA: I can probably

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1 clarify this if you want. This point 9, that
 2 refers to "any person", is the formular that
 3 had been agreed to. It had said
 4 "communications with the Chief Minister"
 5 and the whole point was that Mr Llamas said,
 6 you will see in his evidence, and this was the
 7 result on the document that was put to Mr
 8 Llamas.
 9 THE CHAIRMAN: I was just trying to find
 10 out the date.
 11 MR WAGNER: Thank you. You were
 12 asked yesterday about paragraphs -- I think it
 13 was Friday actually -- paragraph 16 of your
 14 first statement, A5 please, and this relates to
 15 the AG raising the ownership issue. You say
 16 in paragraph 16, "The AG also advised that
 17 the investigation should not progress until
 18 such time as the question of ownership of the
 19 NSCIS platform was clarified. This was a
 20 matter that the investigation team had already
 21 identified and were working to address
 22 together with the DPP. It was my
 23 understanding that the question of ownership
 24 of the platform, though important, was not
 25 critical to the prosecution of the suspects."

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1 I just want to keep that language of "the AG
 2 advised the investigation should not
 3 progress", and I want to then take you to B74
 4 please. B74 is your note that you sent to
 5 yourself. This is the earliest version of it.
 6 Just to go down to the bottom paragraph, you
 7 say there, "At a meeting in the office of the
 8 AG with the DPP present, the AG was
 9 suggesting that I stop the investigation from
 10 progressing on the basis that the ownership
 11 of the platform had not been established. I
 12 told him I could not do so as I have Blands'
 13 version of events that suggested they were
 14 owners and that in the absence of any
 15 concrete evidence from Her Majesty's
 16 Government of Gibraltar, I had to go along
 17 with that. DPP again reiterated that the
 18 whole of the [something]", and it seems you
 19 have missed a word out, "did not hinge on
 20 the ownership of the platform. I went as far
 21 as informing the AG that it was within his
 22 power to discontinue a prosecution if he felt
 23 the need to, that I could not simply drop the
 24 matter because of the public interest reasons,
 25 that he would have to make the call. The AG

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1 asked both me and the DPP whether he could
 2 enter a nolle prosequi." And just to go a little
 3 bit further down ... in fact, let's stay there for
 4 a second. So, I have shown you two different
 5 things. One is from your evidence that you
 6 submitted in 2022 and this is from 12 May
 7 2020, in paragraph 16 of your witness
 8 statement and this paragraph here, do you
 9 think you are referring to the same
 10 discussions or different?
 11 **A. I am.**
 12 Q. You are. So, would you say that this is a
 13 more detailed version of what you say in
 14 paragraph 16 of your 2022 witness
 15 statement?
 16 **A. I would say they are the same perhaps.**
 17 Q. If we go a little further down, "At my last
 18 meeting with the AG on this matter where
 19 Superintendent Richardson and Lloyd
 20 DiVincenzi were present, the AG said he was
 21 now taking a step back." So, is that the 7
 22 April meeting?
 23 **A. It seems to be that one, yes.**
 24 Q. Because that's the one -- we know that
 25 Richardson and Mr DiVincenzi were there.

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| <p>1 So, would that suggest that the meeting you 2 are discussing in the paragraph above is an 3 earlier meeting? 4 A. Yes. 5 Q. Just to summarise what is said in that 12 6 May email so I understand it properly, you 7 say the AG suggested that you stop the 8 investigation until the ownership platform 9 had been established, is that right? 10 A. That's correct. 11 Q. And the DPP was presented when he 12 suggested that? 13 A. And the DPP's input was -- 14 Q. I will ask you that in a sec. You told the 15 AG, "We can't do that", and you explain 16 why, is that right? 17 A. That's correct. 18 Q. And the DPP then said the whole of the -- 19 I am guessing, you probably meant 20 investigation, but let me know if that is 21 wrong -- did not hinge on the ownership of 22 the platform? 23 A. It did not hinge entirely. 24 Q. Is that right? 25 A. That's right.</p> <p style="text-align: center;">Page 73</p> | <p>1 Neglected to take appropriate safety 2 measures to ensure the safety of his crew and 3 members of the public resulting in a collision 4 at sea between his vessel and the RHIB. (4) 5 His combined actions were such that they are 6 reasonably likely to have brought discredit 7 on the reputation of the Royal Gibraltar 8 Police. That was the recommendation for the 9 first officer. If we just go a little bit further 10 down, this is the second officer, PC 11 [Something] failed to use the automatic 12 identification system on his vessel contrary 13 to orders and instructions. (2) neglected to 14 take appropriate safety measures to ensure 15 the safety of the crew and members of the 16 public resulting in a collision at sea ... (3) 17 Discreditable conduct. His combined actions 18 were such that they are reasonably likely to 19 have brought discredit on the reputation of 20 the Royal Gibraltar Police. You said you 21 didn't have any direct involvement in the 22 incident at sea. Did you have any knowledge 23 that these officers would behave in the way 24 they did prior to the incident. 25 A. Not at all, otherwise there would have</p> <p style="text-align: center;">Page 75</p> |
| <p>1 Q. And as far as you were concerned that's 2 how it was left? 3 A. Yes. 4 Q. I want to move on to Op Kram. I want to 5 show you C6238 please. This is an excerpt 6 from the independent report by Detective 7 Superintendent Gary Smith of the 8 Metropolitan Police into the misconduct by 9 the officers who were involved in the 10 incident at sea. Now, this report well post- 11 dated your retirement as Commissioner, 12 didn't it? It wasn't available to you -- 13 A. No. It was not. 14 Q. -- before you left. The officer's names 15 are redacted. I don't want you to reveal those 16 names or even discuss anything outside of 17 this report, but here the recommendation 18 against PC Something was that he's charged 19 with the following misconduct offences (1) 20 that he did disobedience to orders. On 8 21 March he disobeyed a standing order not to 22 leave British Gibraltar territorial waters 23 without authority. (2) Failed to use the 24 automatic identification system on his vessel, 25 contrary to orders and instructions. (3)</p> <p style="text-align: center;">Page 74</p> | <p>1 been interventions on any ... 2 Q. Did you have any reason to believe that 3 these officers or any officers would disobey 4 mandatory standing orders relating to the use 5 of the automatic identification system? 6 A. I didn't have reason to believe that. 7 Q. Did you have any reason to believe that 8 these officers or any officers would disobey 9 mandatory standing orders not to leave 10 British Gibraltar territorial waters, except 11 with permission from the Spanish? 12 A. I think the instructions were very clear. 13 Q. Did you have any knowledge that they 14 would disobey that? 15 A. No, no. 16 Q. Just to dig into that a bit, the maritime 17 section, would it be fair to say that not being 18 able to go into Spanish waters without 19 permission would have been training 101? It 20 would have been one of the most basic things 21 that they would know when they were being 22 trained. 23 A. Not only on training, in terms of 24 following instructions. 25 Q. These were not, sort of, obscure rules that</p> <p style="text-align: center;">Page 76</p> |

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|---|--|
| <p>1 they might not have known about?</p> <p>2 A. No.</p> <p>3 Q. Just so this is very clear, I don't want you</p> <p>4 to comment on whether any of the charges</p> <p>5 are correct or anything like that, it is way</p> <p>6 after you left, any of the recommended</p> <p>7 charges, but if it is correct that officers failed</p> <p>8 to follow mandatory standing orders and</p> <p>9 failed to take reasonable safety measures, is</p> <p>10 that something you would condone?</p> <p>11 A. Say again sorry.</p> <p>12 Q. What is your view on that, if they didn't</p> <p>13 follow mandatory standing orders and safety</p> <p>14 measures?</p> <p>15 A. They would -- should be held to account.</p> <p>16 Q. Yes. I want to ask you about Op Kram</p> <p>17 and information sharing. I have just noticed</p> <p>18 the time, I do not have much longer, but I</p> <p>19 will have probably about 15 minutes.</p> <p>20 THE CHAIRMAN: Carry on for 15 minutes.</p> <p>21 MR WAGNER: Is that okay with you, Mr</p> <p>22 McGrail?</p> <p>23 A. I am okay.</p> <p>24 Q. So, Op Kram. The incident happened in</p> <p>25 the early hours of 8 March 2020. In the</p> <p style="text-align: center;">Page 77</p> | <p>1 the location was important.</p> <p>2 MR WAGNER: Yes.</p> <p>3 (11.30)</p> <p>4 A. It was important to establish whether</p> <p>5 there had been criminality in Gibraltar and in</p> <p>6 consequence of that all the management of</p> <p>7 the situation would have an impact. If there</p> <p>8 was criminality in Gibraltar then a lot of things</p> <p>9 fall into place.</p> <p>10 Q. Is it fair to say that if there had not been</p> <p>11 criminality in Gibraltar you would not have</p> <p>12 jurisdiction over the events?</p> <p>13 A. That is correct. Well, there would be</p> <p>14 coronial jurisdiction because the bodies were</p> <p>15 landed in Gibraltar and therefore the law says</p> <p>16 that if the bodies are landed in Gibraltar it</p> <p>17 becomes a coroner's jurisdiction, so in that</p> <p>18 regard --</p> <p>19 Q. Coroner's jurisdiction.</p> <p>20 A. But not criminal.</p> <p>21 Q. It would not be criminal jurisdiction.</p> <p>22 Had you detained people?</p> <p>23 A. Two persons had been arrested, I</p> <p>24 understand.</p> <p>25 Q. And were you detaining them?</p> <p style="text-align: center;">Page 79</p> |
| <p>1 hours that followed, what were your</p> <p>2 priorities?</p> <p>3 A. There were a host of priorities. I start</p> <p>4 from the welfare of the personnel involved,</p> <p>5 the consequences of what had happened</p> <p>6 without going into particulars, but the</p> <p>7 consequences, and the investigation that</p> <p>8 would naturally follows. I have summarised</p> <p>9 that, but in-between those, there are a host of</p> <p>10 strands but to save you time, I have just</p> <p>11 condensed that into those principal</p> <p>12 considerations.</p> <p>13 Q. Yes. What about trying to find out where</p> <p>14 the incident happened. Why was that</p> <p>15 important?</p> <p>16 A. It was important because somewhere,</p> <p>17 initially, it was said that it had happened, I</p> <p>18 think it was mooted verbally to me that one</p> <p>19 of the surviving members had suggested that</p> <p>20 this had happened outside British waters,</p> <p>21 British Gibraltar territorial waters. Now,</p> <p>22 obviously that account was not going to be</p> <p>23 taken at face value and therefore --</p> <p>24 THE DISTRICT JUDGE: You have</p> <p>25 forgotten what the question is, which is why</p> <p style="text-align: center;">Page 78</p> | <p>1 A. Sorry?</p> <p>2 Q. Were the Gibraltar police detaining</p> <p>3 them?</p> <p>4 A. They detained them, yes, yes. They were</p> <p>5 bailed pending further enquiries.</p> <p>6 Q. And if there had not been a crime in</p> <p>7 Gibraltar waters or Gibraltar territory, would</p> <p>8 you have had authority to detain those</p> <p>9 individuals?</p> <p>10 A. No.</p> <p>11 Q. So would you agree that what was really</p> <p>12 urgent was understanding whether any part</p> <p>13 of the incident happened in Gibraltar waters?</p> <p>14 A. Absolutely.</p> <p>15 Q. And other matters were important like</p> <p>16 where exactly it all happened. That was</p> <p>17 extremely important, would you agree?</p> <p>18 A. It was, it was. I think it's reflected in the</p> <p>19 notes.</p> <p>20 Q. You have not been shown - I do not think</p> <p>21 anybody has been shown a map - of</p> <p>22 Gibraltar waters. We have brought one</p> <p>23 along.</p> <p>24 THE CHAIRMAN: I have. You produced it</p> <p>25 some time ago. I am very sorry I lost it.</p> <p style="text-align: center;">Page 80</p> |

1 MR WAGNER: Thanks to Mr Gomez
 2 Senior we have this excellent map which sits
 3 in the boardroom of Gomez & Co. (To the
 4 witness) You see there that Gibraltar is
 5 where Gibraltar is. Round it is a shape a bit
 6 like a guitar plectrum - I am sure others will
 7 have different analogies - but it is pink, is it
 8 not? Is that British Gibraltar territorial
 9 waters?
 10 **A. That is.**
 11 Q. And they go out - I think you were asked
 12 yesterday - do they go out three miles?
 13 **A. That's right. Yes.**
 14 THE CHAIRMAN: Three nautical miles.
 15 MR WAGNER: Three nautical miles, which
 16 is a bit more --
 17 THE CHAIRMAN: It is a cannon shot.
 18 MR WAGNER: Three nautical miles is a
 19 cannon shot.
 20 THE CHAIRMAN: Yes.
 21 MR WAGNER: I think it is right to say that
 22 three nautical miles is a bit more than three
 23 miles.
 24 **A. I'll take your word for it. I'm not sure.**
 25 Q. You will take my word for it. A little bit

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1 more. That is the line there. I will come
 2 back to the map. One other thing. There is
 3 two different colours. There is another line
 4 that comes out eastwards. The line goes on,
 5 and above it is green and below it is blue.
 6 Do you know what the difference between
 7 those areas is?
 8 **A. I believe it's international waters and**
 9 **Spanish waters.**
 10 Q. Which is which?
 11 **A. The blue would be international waters**
 12 **and the green would be Spanish waters.**
 13 Q. Is it right to say that that line that goes
 14 eastwards roughly goes from the top of
 15 Gibraltar territory?
 16 **A. Yes.**
 17 THE CHAIRMAN: Because Gibraltar
 18 claims 12 miles.
 19 MR WAGNER: Three miles, I think.
 20 THE CHAIRMAN: Sorry. Spain claims 12
 21 miles.
 22 MR WAGNER: Sir, yes, exactly, so that
 23 must be 12 miles, that line, and then it sort of
 24 tapers off into international waters. Above it
 25 is the Spanish waters, below is the

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1 international waters.
 2 **A. Yes.**
 3 Q. Except for the pink, which is Gibraltar --
 4 **A. Described in the key as "high seas",**
 5 **which it says there.**
 6 Q. So if we just put that down for the
 7 moment. I want to pick up some of the
 8 communications. B 1344.
 9 THE CHAIRMAN: We have been through
 10 these many times. You can take this quite
 11 quickly.
 12 MR WAGNER: Yes. (To the witness)
 13 07.43, the second one. This is you to the
 14 Chief Minister: "Collision occurred approx.
 15 3.40 hours. Location still to be confirmed."
 16 THE CHAIRMAN: You need not cover the
 17 same ground that Mr Santos has covered.
 18 MR WAGNER: No, no, and I am not going
 19 to but I think there are some nuances in some
 20 of the messages and I am going to cover
 21 those.
 22 THE CHAIRMAN: Okay, fair enough.
 23 MR WAGNER: (To the witness) I just want
 24 to ask you about some terms because there is
 25 different terms used in these messages and I

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1 want to be clear what you understand them to
 2 mean. First of all, which did you understand
 3 to mean "the incident"? It is not on the
 4 screen at the moment. When you are
 5 discussing "the incident", what are you
 6 talking about?
 7 **A. A package. Not the -- I think I've**
 8 **explained it that the incident for me was the**
 9 **collision and the pursuit leading to it.**
 10 Q. You mentioned two other terms there:
 11 "the collision", which is where the boats
 12 crashed into each other and the deaths
 13 happened; and "the pursuit" or I think it is
 14 also referred to as "the chase" in other parts.
 15 **A. Yes.**
 16 Q. And those collectively are "the incident"
 17 from your perspective.
 18 **A. Yes.**
 19 Q. What do you mean when you say
 20 something is confirmed?
 21 **A. That there is evidence which has been**
 22 **verified and we are satisfied that it is correct,**
 23 **or as close to correct as possible.**
 24 Q. When someone asks you as a police
 25 officer for confirmation of something, how

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| | |
|--|--|
| <p>1 careful are you before giving confirmation?</p> <p>2 A. I would qualify it beforehand. I would</p> <p>3 say: "Look, we are not sure, don't rely on</p> <p>4 this."</p> <p>5 Q. If you are not sure.</p> <p>6 A. If we are not sure, that's it.</p> <p>7 Q. But in terms of confirming something</p> <p>8 would it be fair to say you will only confirm</p> <p>9 it when you are sure.</p> <p>10 A. Absolutely.</p> <p>11 Q. There are a number of references in these</p> <p>12 messages to the exact position. What would</p> <p>13 you understand "the exact position" to mean?</p> <p>14 A. The exact position of the collision and</p> <p>15 once it has been confirmed.</p> <p>16 Q. Given everything you have already said</p> <p>17 about the importance of establishing the</p> <p>18 position of the entire incident and it being</p> <p>19 within jurisdiction or not, what could be the</p> <p>20 implications if you confirm something,</p> <p>21 confirmed a location of one part or all of it,</p> <p>22 before you were sure that you could confirm</p> <p>23 that?</p> <p>24 A. There's many ramifications for that. I</p> <p>25 think I alluded to other major incidents where</p> <p style="text-align: center;">Page 85</p> | <p>1 on the day of the incident. "At 11.05hrs, I</p> <p>2 briefed COP, Detective Superintendent Paul</p> <p>3 Richardson and The Attorney General, Mr</p> <p>4 Llamas who was also there, concerning the</p> <p>5 suspected exact co-ordinates. I remember a</p> <p>6 discussion taking place and being asked if the</p> <p>7 chase had been plotted/ recorded as the</p> <p>8 coordinates were well out of BGTW, I was</p> <p>9 unable to answer this. Considering that the</p> <p>10 initial report was that PMB had been</p> <p>11 involved in a chase out at sea..." What does</p> <p>12 PMB start for?</p> <p>13 A. Police motorboats.</p> <p>14 Q. "...approximately 3miles off Europa</p> <p>15 Point, at that moment in time, it was a safe</p> <p>16 assumption that the chase/part of it, had</p> <p>17 occurred in our jurisdiction." Can you just</p> <p>18 show on the map, what is three miles out of</p> <p>19 Europa Point? Which is Europa Point?</p> <p>20 A. The tip of the Gibraltar Peninsular, three</p> <p>21 miles east.</p> <p>22 Q. South.</p> <p>23 A. South. Would be, I would say, between</p> <p>24 five o'clock or six o'clock.</p> <p>25 Q. Sorry, you are saying that Europa Point is</p> <p style="text-align: center;">Page 87</p> |
| <p>1 incorrect or unconfirmed reports can come</p> <p>2 back to haunt the information provider.</p> <p>3 Q. Here you have the question of</p> <p>4 jurisdiction, have you not, and I presume</p> <p>5 somewhere in your mind was the fact that</p> <p>6 this was a potential diplomatic incident.</p> <p>7 A. Absolutely. That featured as one of my</p> <p>8 considerations, yes.</p> <p>9 Q. And also you said in your evidence, you</p> <p>10 alluded to the fact that you were concerned</p> <p>11 about possible civil unrest.</p> <p>12 A. There was, because on the previous, only</p> <p>13 months earlier, where the Customs vessel had</p> <p>14 collided with a smuggling vessel in similar</p> <p>15 circumstances, albeit in Gibraltar waters,</p> <p>16 there had been serious public disorder in the</p> <p>17 neighbouring town, and my concern was that</p> <p>18 that could spill over into Gibraltar.</p> <p>19 Q. Would it be fair to say that at that point</p> <p>20 on the morning of 8 March you were being</p> <p>21 very cautious not to jump to any conclusions</p> <p>22 about the location of any of the incident?</p> <p>23 A. That would be a correct assessment, yes.</p> <p>24 Q. And I am going to show you something</p> <p>25 now from John Field. A 801, please. This is</p> <p style="text-align: center;">Page 86</p> | <p>1 the very bottom tip.</p> <p>2 A. Yes.</p> <p>3 Q. So it is completely a different position.</p> <p>4 A. Absolutely.</p> <p>5 Q. Miles away.</p> <p>6 A. Five o'clock or six o'clock or seven</p> <p>7 o'clock.</p> <p>8 Q. Do you remember Mr Field giving that</p> <p>9 briefing?</p> <p>10 A. Yes, I remember him briefing. I can't</p> <p>11 remember the question of the coordinates but</p> <p>12 --</p> <p>13 Q. Do you remember him being - and it</p> <p>14 sounds like there he was being very cautious</p> <p>15 as well.</p> <p>16 A. I think he's acted as senior investigating</p> <p>17 officer in other cases. He was an</p> <p>18 experienced detective so he knows probably</p> <p>19 the same as I do in terms of what</p> <p>20 information, how it should be -- The</p> <p>21 difference between information and</p> <p>22 evidence, put it that way.</p> <p>23 Q. The difference between information and</p> <p>24 evidence.</p> <p>25 A. Yes.</p> <p style="text-align: center;">Page 88</p> |

22 (Pages 85 to 88)

1 Q. Is information in your mind below
 2 evidence in terms of --
 3 **A. Absolutely.**
 4 Q. - getting towards that confirmation point
 5 on the spectrum.
 6 **A. Yes.**
 7 Q. B 1345, please. 9.49. This is when the
 8 Chief Minister has asked you about the
 9 location. You say: "The information
 10 suggests that the collision took place outside
 11 BGTW approximately six nautical miles east
 12 off the runway or Santa Barbara Beach." Are
 13 the runway and Santa Barbara Beach the
 14 same place?
 15 **A. Well, it's a frontier fence that divides**
 16 **them.**
 17 Q. So if you go three nautical miles east of
 18 the runway, is that the same position as if
 19 you go three nautical miles east of Santa
 20 Barbara Beach?
 21 **A. Like I explained, it depends at what point**
 22 **of the beach. If it's the most northern, then it**
 23 **wouldn't be, but if it's the most southern, it**
 24 **would be closer to our waters, because Santa**
 25 **Barbara Beach could be a kilometre long.**

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1 Q. You say there at 9.49: "The information
 2 suggests that the collision took place outside
 3 BGTW." You do not say there which waters,
 4 do you? You do not say Spanish or
 5 international or anything, do you?
 6 **A. It says "outside BGTW."**
 7 Q. Is it fair to say that is what is in your
 8 mind at the time, whether it is in or out
 9 BGTW.
 10 **A. Yes.**
 11 Q. And you say there: The information
 12 suggests". Would it be fair to describe that
 13 as you being very cautious about what you
 14 are saying?
 15 **A. I was relaying what I had at the time.**
 16 **This is - it's not that I was thinking what**
 17 **should I be feeding up. It's not that.**
 18 Q. No, you were just feeding up what you
 19 were being told.
 20 **A. Exactly. I was not over-thinking what I**
 21 **had to write. That came out because that was**
 22 **what I had.**
 23 Q. And you were texting the Chief Minister.
 24 Is it right to say that he did not attend any of
 25 the briefings?

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1 **A. He didn't.**
 2 Q. As compared to the Governor, who
 3 attended two briefings.
 4 **A. Yes.**
 5 Q. If we can go a little bit further down,
 6 11.40. This is a text message the AG for
 7 some reason sends to you but is intended for
 8 the Chief Minister.
 9 THE CHAIRMAN: It was an error.
 10 MR WAGNER: Do we know it is an error?
 11 THE CHAIRMAN: Well, it seems an
 12 obvious explanation.
 13 MR WAGNER: I do not know.
 14 THE CHAIRMAN: Anyway, I do not want
 15 to delay time because you are running out of
 16 it.
 17 MR WAGNER: I understand. (To the
 18 witness) "PR [Paul Richardson] will not say
 19 where incident occurred but it's virtually
 20 certain it was outside BGTW eastern side
 21 opposite runway. It also seems that part of
 22 the chase was within BGTW." Is that
 23 language, "virtually certain", your language?
 24 **A. I think it's the Attorney General's.**
 25 Q. It is the Attorney General's, so you have

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1 not texted the Chief Minister "virtually
 2 certain".
 3 **A. No.**
 4 Q. And, in fact, you said "information
 5 suggests". You said something very
 6 different.
 7 **A. Yes.**
 8 Q. You were very cautious, were you not?
 9 **A. I can't say I was cautious what I was --**
 10 Q. You just said what you had been briefed.
 11 **A. Exactly, yes.**
 12 Q. And again there is that point: Is it in or
 13 out of BGTW, is what is being spoken about.
 14 **A. The bottom line, Mr Wagner, is that I did**
 15 **not have any reason, motive or anything**
 16 **whatsoever to be evasive.**
 17 Q. No.
 18 **A. Or withhold anything from Mr Pyle at all,**
 19 **at all, at all.**
 20 Q. I will come to that in a moment. In fact, I
 21 will come to it next. B 1346. This is when
 22 the Governor is walking his dog, he comes
 23 into the briefing. You have been briefing Mr
 24 Llamas in detail, have you not?
 25 **A. Yes.**

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1 Q. And he says: "Thanks for the briefing.
 2 I'll do a quick note for London when it hits
 3 the press. Line will be investigation ongoing,
 4 Spanish nationals from Cueta. One was
 5 Portuguese. Not sure in whose waters
 6 incident took place."
 7 **A. Incident.**
 8 Q. Let us break it down. First of all, "not
 9 sure". Were you sure at the time where the
 10 incident took place?
 11 **A. No.**
 12 Q. And you understood the incident to be the
 13 whole chase.
 14 **A. Yes. Both. Both, the chase and the**
 15 **collision.**
 16 Q. If you had sort of put out a statement or
 17 emailed the Governor saying: "We are now
 18 sure in whose waters the incident took
 19 place", would that have been accurate?
 20 **A. No.**
 21 Q. Was there anything inaccurate about "not
 22 sure in whose waters incident took place" at
 23 that moment?
 24 **A. No.**
 25 Q. You and the other officers, or what was

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1 being communicated to you at the time, the
 2 working theory was that part was in, part was
 3 out. Is that right?
 4 **A. That's right. At least that part of the**
 5 **pursuit was in our waters, yes.**
 6 Q. The Governor is being briefed. When the
 7 Governor walks into the room is there any
 8 reason why you would not give him the
 9 salient information which you had been
 10 giving to the AG?
 11 **A. This is what I can't grapple with. Are**
 12 **you suggesting that from being open to the**
 13 **Attorney General and Mr Richardson and**
 14 **having a frank and open briefing, that I**
 15 **became evasive? It just doesn't square. It**
 16 **doesn't square off. There was no change in**
 17 **my posture, put it that way. I remained as**
 18 **engaged in the briefing as I was, and I'm just**
 19 **thinking, it's not reflected in Mr Richardson**
 20 **or Mr Llamas that I became evasive, flippant,**
 21 **or anything of that sort at all.**
 22 Q. Were Mr Llamas and Mr Richardson
 23 capable of speaking out in that briefing with
 24 the Governor?
 25 **A. They were, of course.**

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1 Q. You were not --
 2 **A. It was an interactive --**
 3 Q. You were not standing at a podium
 4 giving a briefing to the Governor.
 5 **A. No, no, this was round --**
 6 Q. It was round the table.
 7 **A. This was round table, yes.**
 8 Q. And do you recall Mr Richardson or the
 9 Attorney General piping up at any point and
 10 saying: "Mr McGrail, you have missed out
 11 some salient information, this is it"?
 12 **A. No. And you can see that Mr Richardson**
 13 **would have certainly jumped in because he's**
 14 **the type of person that would challenge that.**
 15 **And equally with Mr Llamas.**
 16 Q. 1748. So that was the day of the incident,
 17 the 8th. On the evening of the 8th we know
 18 that Mr Llamas and Mr Pyle met and he
 19 briefs his superiors. "There may be
 20 complications around yesterday's incident in
 21 that it might have happened as much as six
 22 miles inside Spanish waters." I am not
 23 asking you to explain what was in Mr Pyle's
 24 mind but he refers to "the incident" there
 25 "might have happened as much as six miles

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1 inside Spanish waters." Does that accord
 2 with your understanding of what he meant by
 3 "incident"?
 4 **A. It's evident what he's referring to there is**
 5 **the collision, not necessarily the incident as a**
 6 **package.**
 7 Q. It might have happened as much as six
 8 miles inside Spanish waters. Do you know if
 9 anybody was saying on the 8th or the morning
 10 of the 9th that the collision may have
 11 happened six miles inside Spanish waters?
 12 **A. No. although the figure six --**
 13 Q. Six, yes.
 14 **A. - resonates and is saying that the context**
 15 **of it is wrong because the information I**
 16 **imparted was six nautical miles from the**
 17 **coastline, not necessarily into Spanish**
 18 **waters.**
 19 Q. Which would be three nautical miles
 20 either into Spanish waters or the
 21 international waters depending exactly,
 22 because you are right on the line there, are
 23 you not, at the top of Gibraltar.
 24 **A. That's right.**
 25 THE CHAIRMAN: Time. We must press

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| <p>1 on. This is a very long quarter of an hour. 2 MR WAGNER: I just noticed it is a very 3 long quarter of an hour. 4 THE CHAIRMAN: Yes, but it always is. 5 MR WAGNER: I have 6 never given a good quarter of an hour in my 7 life. I am sorry. 8 THE CHAIRMAN: We have to keep to this 9 timetable. I pressed Sir Peter yesterday and I 10 am pressing you today. 11 MR WAGNER: I know. It is just that this is 12 central and I do want to finish it off, if I may. 13 MR SANTOS: I am sorry to interrupt but it 14 is ten to 12. I am just conscious that we have 15 a typist. I also have some further questions 16 to ask, so it is probably worth breaking. 17 THE CHAIRMAN: I am hesitant to have a 18 break now because Mr Wagner will get a 19 second breath and will start again. We must 20 now bring it to a close. I can read all of these 21 exchanges. 22 MR WAGNER: I appreciate it and I will 23 take a breath, but only half a breath, now and 24 try and finish quickly. (To the witness) On 25 the 9th in the morning, 1292, so this is the</p> <p style="text-align: center;">Page 97</p> | <p>1 waters, I'm not being - providing misleading 2 information or evasive information. It was 3 just unconfirmed. 4 Q. It was just you did not now. 5 A. Exactly. Working theory. 6 Q. And there is no reference there to "virtual 7 certainty", is there? 8 A. No. 9 Q. And there is no reference there to being 10 sure about anything. 11 A. No. 12 Q. In fact, the opposite. Just the final thing I 13 am going to show you on this, B 1757, Nick 14 Pyle emails on 9 March at 4.42. This is his 15 record of the notes that he sends to his 16 superior. No mention of you being flippant, I 17 just put that to you. If we go further down: 18 "The AG said it was clear with the entry at 19 some point of the vessel into BGTW, that the 20 law had been broken and therefore the chase 21 was legitimate. He said it was important we 22 were able to present this to the Spanish as 23 cooperation. He stressed the need for details 24 of communications between the GC and 25 RCP." So the AG said it was clear with the</p> <p style="text-align: center;">Page 99</p> |
| <p>1 second briefing that the Governor attends, A 2 1292, this is Mr Richardson transcribing his 3 notes of the briefing with the Attorney 4 General. If we go a little bit further down, 5 the 9th, by the 9th, by midday, so about 36 6 hours roughly after the incident occurred: 7 "Exact coordination of collision still not 8 determined." Is that what you understood to 9 be the position then, that the exact 10 coordinates, still not determined? 11 A. Yes, but obviously it infers that the 12 provisional coordinates were spoken about 13 because we are talking about exact, on those 14 exact ones, we didn't know. 15 Q. Yes, and if we just go - and you can see 16 there: "Ten minutes chase in and around 17 Gibraltar waters." So it is still the working 18 theory that there was some part of the chase - 19 it turned out later to be wrong. 20 A. That's right. 21 Q. But part of the chase was in Gibraltar 22 waters. 23 A. We found that out about three days later 24 and what I'm trying to say is that by 25 imparting ten minute chase in and around our</p> <p style="text-align: center;">Page 98</p> | <p>1 entry at some point of the vessel to BGTW 2 jurisdiction. 3 A. And it was not. 4 Q. It was not. 5 A. It was not. 6 Q. So again you have the AG seeming to be 7 giving more assurance than you are getting at 8 the briefing. Is that fair, Mr McGrail? 9 A. The AG was - well, he's taken, Mr Pyle 10 has taken, that the AG was clear, but not 11 necessarily is that what the AG said, that we 12 were working on a theory, but Mr Pyle's 13 interpretation is that the AG was clear, and 14 that was not the case. 15 Q. Is it right that the correct information 16 there is where he says the Chief of Police - 17 you - Commissioner of Police - confirmed 18 the exact location still to be determined, as 19 were the details of the chase which lasted ten 20 minutes. Is that right? 21 A. Yes. 22 Q. Nothing inaccurate in that. 23 A. At all. 24 Q. That exactly reflects the briefings you 25 were getting.</p> <p style="text-align: center;">Page 100</p> |

25 (Pages 97 to 100)

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| <p>1 A. Yes.</p> <p>2 Q. On the 9th in the evening the Chief</p> <p>3 Minister created a maritime incident</p> <p>4 WhatsApp group. B 99 is the transcript and</p> <p>5 he says: "I've set up this channel to make</p> <p>6 progress on any live issues on this easier."</p> <p>7 Included in the channel is him, you, Mr</p> <p>8 Grech the chief secretary, Dr Britta the GPA</p> <p>9 chair and Mr Carreras the PCB chair - the</p> <p>10 Police Complaints Board chair. Do you</p> <p>11 know why Mr Pyle was left out of this</p> <p>12 group?</p> <p>13 A. I don't know. It was Mr Picardo who</p> <p>14 opened it.</p> <p>15 Q. And then the final message - sorry, this is</p> <p>16 the real final message - B 1351. This is on</p> <p>17 the 11th so this is a few days after. "Good to</p> <p>18 hear about progress." This is from Nick</p> <p>19 Pyle. "Any clearer as to where the collision</p> <p>20 took place? London are keen to know if it</p> <p>21 was inside or outside of BGTW." You</p> <p>22 responded: "Nick, we are getting there on</p> <p>23 establishing exact coordinates of where the</p> <p>24 collision took place. We're tying up some</p> <p>25 loose ends and probing further from WHSS.</p> <p style="text-align: center;">Page 101</p> | <p>1 Q. You did not have that evidence. Is there</p> <p>2 anything inaccurate in this?</p> <p>3 A. We worked tirelessly to achieve the</p> <p>4 evidence that would confirm where the - and</p> <p>5 I think that is evidenced in the efforts of the</p> <p>6 police officers working in conjunction with</p> <p>7 the ports. It was not until then that I was</p> <p>8 satisfied that it had happened outside and</p> <p>9 where, the area in question.</p> <p>10 Q. Did Mr Pyle approach you --</p> <p>11 THE CHAIRMAN: No, you have had time</p> <p>12 enough. You have had two hours this</p> <p>13 morning. You said you were going to be an</p> <p>14 hour. The timetable has to be kept and</p> <p>15 unless I make a strong line on it we are never</p> <p>16 going to finish. You have had two hours; it</p> <p>17 is quite long enough.</p> <p>18 MR WAGNER: I said I would be an hour</p> <p>19 and a half, Chairman, not an hour. Can I ask</p> <p>20 one more question?</p> <p>21 THE CHAIRMAN: No, you have had your</p> <p>22 time. Well, you can ask one more question</p> <p>23 but it has to be a short question, not a speech.</p> <p>24 MR WAGNER: (To the witness) Did Mr</p> <p>25 Pyle notify you of any concerns he had about</p> <p style="text-align: center;">Page 103</p> |
| <p>1 Should be able to confirm soon. It is highly</p> <p>2 probable it did occur out BGTW." So that is</p> <p>3 the collision he is asking about. The</p> <p>4 collision.</p> <p>5 A. Yes.</p> <p>6 Q. Was that information the best information</p> <p>7 you had at the time?</p> <p>8 A. I had the provisional coordinates which</p> <p>9 suggested that it had happened in Spanish</p> <p>10 waters.</p> <p>11 Q. You did not even say that here.</p> <p>12 A. No, I didn't say that there but I was</p> <p>13 working on the basis that Mr Pyle was aware</p> <p>14 of that already.</p> <p>15 Q. Because you had been discussing it in the</p> <p>16 briefing.</p> <p>17 A. Yes. What I couldn't do is tell him:</p> <p>18 "Look, this has happened three miles or five</p> <p>19 miles out or seven miles or two." I couldn't</p> <p>20 because I didn't know.</p> <p>21 Q. And you could not be sure or confirm.</p> <p>22 A. Absolutely.</p> <p>23 Q. Because you did not have that</p> <p>24 information.</p> <p>25 A. No.</p> <p style="text-align: center;">Page 102</p> | <p>1 your communications around Op Kram at</p> <p>2 any time before you resigned or you retired?</p> <p>3 A. Not only in this particular case, he did not</p> <p>4 raise any concerns about me at all.</p> <p>5 THE CHAIRMAN: Thank you. Well, that</p> <p>6 was a short question and an important one, I</p> <p>7 agree. I think we will have a break, but after</p> <p>8 the break we will move effortlessly on to the</p> <p>9 next -- After your examination we will move</p> <p>10 straight onto the next witness.</p> <p>11 MR SANTOS: I suspect I will not be more</p> <p>12 than three to five minutes.</p> <p>13 THE CHAIRMAN: Okay.</p> <p>14 (11.59)</p> <p>15 (Adjourned for a short time)</p> <p>16 (12.10)</p> <p>17 IAN MCGRAIL, Continued</p> <p>18 Questioned by MR SANTOS:</p> <p>19 MR SANTOS: Mr McGrail, I have just a few</p> <p>20 follow up questions. The first question is did you</p> <p>21 consider asking Superintendent Richardson or</p> <p>22 Inspector Wyan to seek the written advice of the</p> <p>23 DPP on the matters relating to Mr Levy?</p> <p>24 A. I did not consider it. That was a matter for</p> <p>25 them to deal with. I did not go into that detail.</p> <p style="text-align: center;">Page 104</p> |

26 (Pages 101 to 104)

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| <p>1 Q. You were asked earlier whether you had any 2 role in drafting the charging advice in relation to 3 Mr Levy, the charging advice document, and you 4 said, "No," but I just want to clarify one thing 5 with you. Can we turn to B3855, please. This is 6 a typed copy of a page of Detective Sergeant 7 Clark's day book for 23 April 2020. If we go back 8 one page, there is the handwritten version but if 9 we can go back to the typed version, there are -- 10 - it says, "Meeting Commissioner of Police, 11 Assistant Commissioner, Superintendent and 12 DI." There are numbers there and references to 13 dishonesty, civil wrongs, page number, and we 14 have actually matched that up with a draft of the 15 charging advice report dated 24 March which is 16 at B3612. This is a draft charging advice and the 17 references in the paragraphs seem to match up 18 with that charging advice. Given that the note 19 refers to a meeting taking place and with you 20 being present, I wanted to give you another 21 opportunity to consider whether in fact there 22 was a meeting at which you considered the 23 content of the charging advice document? 24 A. The meetings that I attended with the team 25 were briefings, whether the briefing originated</p> <p style="text-align: center;">Page 105</p> | <p>1 some of those may have related to Operation 2 Delhi? 3 A. Yes. 4 Q. Did you hand copies of those Operation Delhi 5 papers that you had kept back to the RGP before 6 destroying them? 7 A. I beg your pardon, I destroyed them, I never 8 handed them back. 9 Q. Did you hand --- did the RGP take copies of 10 the papers that you destroyed before ---- 11 A. When they came to my house, those papers 12 were no longer there. They had been destroyed 13 before that. 14 Q. Did you say they had been destroyed, as in 15 you had destroyed them? 16 A. Yes. 17 Q. Before the RGP took --- so the documents 18 that you took from Operation Delhi ---- 19 A. They no longer had use for them. 20 Q. The hard drive that you retained was 21 analysed by the RGP. Were there any 22 amendments or deletions to the documents that 23 you retained in relation to Operation Delhi from 24 when you retained the hard drive until you 25 handed it back to the RGP?</p> <p style="text-align: center;">Page 107</p> |
| <p>1 from those notes --- from that document, I'm 2 not under dispute with that but in terms of 3 charging advice that the title says, I was only 4 briefed in terms of the investigation not --- 5 certainly not specifically on charges. I can't 6 remember that. 7 Q. No, sorry, not on charges but that report was 8 prepared to seek the advice of the DPP not in 9 fact on charging, it was prepared to seek his 10 advice as to whether Mr Levy should be treated 11 as a suspect and it does appear from the note 12 that there was a meeting at which you discussed 13 the content of that document. I am not 14 suggesting that you drafted it but I just wanted 15 to clarify whether in fact you have any 16 recollection of that? 17 A. I recall a briefing. I cannot say I discussed the 18 contents. I recall being briefed up on that 19 matter. 20 Q. Thank you. I also have a few follow up 21 questions from my own questions to you that 22 had been submitted on the back of answers that 23 you gave in terms of the papers and hard drive 24 that you kept on your departure from the RGP. 25 You said that you kept some papers and that</p> <p style="text-align: center;">Page 106</p> | <p>1 A. I don't understand. 2 Q. Between the time that you took the hard 3 drive with you on your departure from the RGP 4 and handing it back to the RGP as you did later 5 on, were there any amendments or deletions to 6 the documents in that hard drive relating to 7 Operation Delhi? 8 A. Not that I know of no. 9 Q. Did you disclose all or the documents from 10 the hard drive to the Inquiry or did you rely on 11 the RGP doing so? 12 A. I think I relied on some emails but not 13 necessarily Delhi documents. I think we relied 14 on the RGP --- I can't be 100 per cent sure. 15 Q. Then there is one last question, will you just 16 bear with me whilst I ---- 17 A. Sure. 18 Q. We have heard about the meeting on 8 19 March 2020, the day of the incident at sea, there 20 was a briefing between you and the Attorney 21 General and then subsequently at 12.15 or so, 22 Mr Pyle arrived with his --- well, I do not know 23 whether the dog took part in the meeting but 24 certainly his evidence is that he was walking past 25 with his dog. Who as far as you recall was</p> <p style="text-align: center;">Page 108</p> |

27 (Pages 105 to 108)

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| <p>1 present at that meeting? Was it --- can I just ask 2 you one by one? It is clear that you were there 3 and Mr Pyle was there. As far as you recall was 4 the Attorney General there? 5 A. Yes. 6 Q. And as far as you recall was Superintendent 7 Richardson there? 8 A. I believe so, yes. 9 Q. And as far as you recall, was DCI Field there? 10 A. Possibly; possibly. I wouldn't be able to be 11 100 per cent certain. 12 MR SANTOS: I have no further questions, thank 13 you very much, Mr McGrail. 14 THE CHAIRMAN: Okay, thank you very much for 15 coming, you are free to go but obviously you can 16 stay if you want to. 17 THE WITNESS: Thank you. Can I just thank 18 yourself and the Inquiry team for allowing me 19 the first time opportunity to bring out this to the 20 public notice. I would also like to thank Mr 21 Wagner, Ms Gallagher KC and everybody at 22 Gomez & Co for ---- 23 THE CHAIRMAN: I do not want to time you as 24 well! 25 THE WITNESS: No, but I am very grateful.</p> <p style="text-align: center;">Page 109</p> | <p>1 Q. Can I just ask you to check that that is the 2 first witness statement that you gave to this 3 Inquiry? 4 A. Yes, it is. 5 Q. Can I ask you to turn to the last page of that 6 statement and confirm that it is your signature 7 on the final page, please? 8 A. It is, it is dated 31 October. 9 Q. Thank you and do you confirm that that 10 statement is true to the best of your knowledge, 11 information and belief? 12 A. It is. 13 Q. Thank you. Can I just ask you to turn to the 14 next tab because there is a second witness 15 statement from you to the Inquiry. 16 A. Yes. 17 Q. Can I ask you to check and confirm that that 18 is your second statement please? 19 A. It is. 20 Q. And can I ask you again to check that your 21 signature is on the final page? 22 A. It is, 27 March 2024. 23 Q. Thank you, and can you please confirm that 24 that is true to the best of your knowledge, 25 information and belief?</p> <p style="text-align: center;">Page 111</p> |
| <p>1 THE CHAIRMAN: Okay, thank you. 2 (The witness withdrew) 3 THE CHAIRMAN: Yes. 4 MR SANTOS: Thank you, sir, can we please call 5 our next witness, Mr James Levy KC. 6 [After a short pause] 7 THE CHAIRMAN: Is there a problem? 8 MR SANTOS: We are waiting for the witness. He 9 was downstairs. 10 THE CHAIRMAN: If he is only downstairs, I mean 11 ---- 12 MR SANTOS: The secretary has just gone down 13 to ---- 14 THE CHAIRMAN: Yes. 15 MR SANTOS: I think he may be --- yes. 16 JAMES [HAIM] LEVY Sworn: 17 Questioned by MR SANTOS: 18 Q. Good afternoon, Mr Levy. 19 A. Good afternoon. 20 Q. There should be a bundle in front of you 21 marked witness statements. Sorry, it is not 22 marked witness statements but there should be 23 a bundle inside if you look behind the first tab 24 you should find your first witness statement. 25 A. Yes.</p> <p style="text-align: center;">Page 110</p> | <p>1 A. It is. 2 Q. There was also a witness statement given by 3 you to the RGP for the purpose of the criminal 4 proceedings and that is --- I am not sure whether 5 that is in front of you but I think it might be at 6 the back of the same bundle. 7 A. It is. 8 Q. I am glad to hear that. Can you just please 9 confirm that that is a witness statement which 10 you gave to the RGP for the purposes of its 11 investigation? 12 A. It is, dated 9 June 2020. 13 Q. Thank you, and is that statement true to the 14 best of your knowledge, information and belief? 15 A. It is. 16 Q. Thank you. How long have you been in 17 practice, Mr Levy. 18 A. Since November 1972. 19 Q. And can you please explain briefly what your 20 role is at Hassans? 21 A. Presently? 22 Q. Yes. 23 A. Well, it's probably involved in high level 24 advice mainly. 25 Q. Can I please turn you to bundle A190, and</p> <p style="text-align: center;">Page 112</p> |

28 (Pages 109 to 112)

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| <p>1 this is the statement given by --- the first 2 statement given by the Chief Minister to this 3 Inquiry. I just want to focus on paragraph 38 --- 4 sorry, I should have said that I am very grateful 5 to Mr Triay. I believe that the documents that I 6 am going to refer to are in that file in front of 7 you in case you want to look at them in hard 8 copy rather than on the screen. 9 A. I prefer to look at them. 10 Q. In that case we will try and make sure that 11 you have the hard copy in front of you at all 12 times. 13 A. Thank you. 14 Q. I am just focusing on paragraph 38 which is 15 the big paragraph and this is a paragraph where 16 Mr Picardo, the Chief Minister, explains his 17 relationship with you. You are welcome to read 18 the entire paragraph but I am focusing on a 19 sentence which is just over halfway down which 20 says, "I consider Mr Levy to be a mentor in my 21 previous legal practice, a supporter in my 22 current political career and a close personal 23 friend." Do you agree with that characterisation 24 of your relationship with the Chief Minister? 25 A. I assume the mentor bit is a matter for him</p> <p style="text-align: center;">Page 113</p> | <p>1 Q. And how often do you message him? 2 A. Not often. 3 Q. Have you worked with Mr Llamas previously? 4 A. Do you mean have I been instructed by him? 5 Q. Whether you have worked --- either 6 instructed by him or whether he has worked 7 with your firm or have you ever had a 8 professional relationship with him? 9 A. Yes, he has worked with my firm. I haven't 10 worked with him professionally for a long time, I 11 think. 12 Q. I understand that you use WhatsApp as a 13 method of communication. Is that correct? 14 A. Yes, I use it more now than I did at the time, 15 yes. 16 Q. And, well, focusing on the relevant time, did 17 you use WhatsApp to communicate with the 18 Chief Minister? 19 A. I don't particularly recall but I must have, 20 yeah. 21 Q. And Mr Baglietto, KC? 22 A. To communicate with Mr Baglietto? 23 Q. By WhatsApp? 24 A. No. I mainly speak to Mr Baglietto. 25 Q. What about officers at the Gibraltar Police</p> <p style="text-align: center;">Page 115</p> |
| <p>1 but, yes, he is a close friend. 2 Q. How long have you known the Chief 3 Minister? 4 A. Well, probably something like that 35 years. 5 Q. How often do you speak to him? 6 A. Sometimes seldom, sometimes often. 7 Q. On average, say in a week, how often would 8 you say that you speak to him? 9 A. Some weeks I don't speak to him at all. Some 10 weeks I could speak to him three or four times a 11 week. 12 Q. And how often do you message him? 13 A. Sometimes --- as I said, it depends on what I 14 have to do but sometimes I could message him 15 twice a day, sometimes I won't message him for 16 a week or ten days. 17 Q. Can I ask next about the Attorney General, 18 Mr Llamas KC. 19 A. Yes. 20 Q. How would you describe your relationship 21 with Mr Llamas? 22 A. A friendly professional relationship. 23 Q. How often do you speak to the Attorney 24 General? 25 A. Not often.</p> <p style="text-align: center;">Page 114</p> | <p>1 Federation? 2 A. I do --- mainly I meet with them. 3 Q. But some WhatsApp communications? 4 A. Yes. 5 Q. Can I ask why you have not disclosed any 6 WhatsApp communications with those with 7 whom you communicate to the Inquiry? 8 A. Well, with regard to the Police Federation, I 9 think those are covered by legal professional 10 privilege. 11 Q. And the Chief Minister? 12 A. The chief minister, I don't have very simple --- 13 my phone was taken by the police when they 14 came to exercise the warrant. It was copied in 15 front of a police technician by one of the head of 16 my IT. They gave me at the time a second hand 17 phone and I am not very technical so I don't 18 know what happened, whether anything 19 happened in the transfer, but if I had I would 20 have given the WhatsApp. 21 Q. Do you remember how long you had that 22 second hand phone for? 23 A. The second hand phone, probably till about a 24 year ago. 25 Q. Have you taken any measures to locate the</p> <p style="text-align: center;">Page 116</p> |

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| <p>1 messages on either the earlier device or on your 2 second hand phone with the Chief Minister? 3 A. Yes, we have two heads of IT and they did all 4 they could. I mean, I wouldn't be very useful in 5 that but they are very --- they are good and they 6 have told me that it is impossible. 7 Q. The Attorney General has also disclosed 8 WhatsApp messages between you and him on 9 13 May 2020. 10 A. Yes. 11 Q. A repetitive question, but why did you not 12 disclose those messages to the Inquiry? 13 A. You mean in my first statement? 14 Q. The 13th May --- I am sorry, I mean the 15 messages themselves, why were those not 16 provided to the Inquiry? 17 A. I haven't got an answer to that. I don't do 18 this work, it's done for me and --- but I haven't 19 got an answer. I am not trying to hide any 20 messages. 21 Q. To the best of your knowledge are you 22 familiar with the exchanges that I am referring to 23 of 13 May 2020? 24 A. I am. 25 Q. To the best of your knowledge was that the</p> <p style="text-align: center;">Page 117</p> | <p>1 A. Not in respect of the company itself. 2 Q. It is true, is it not, that Hassans made a 3 substantial investment in 36 North, specifically a 4 £476,000 loan and guarantees of employment to 5 Mr Perez and Mr Cornelio, consultancy, I think, 6 rather than employment at £300,000 each if the 7 venture did not prosper? 8 A. That's correct. 9 Q. Did you expect that 36 North would succeed? 10 A. Well, 36 North had two aspects of it. The first 11 aspect was their wish to obtain the NSCIS 12 contract and the second aspect was to 13 internationally expand the business to various 14 parts of Africa like Santo May (?) and places like 15 that. As far as I was concerned, I was more 16 interested in the international part than in the 17 local part. 18 Q. Thank you for that answer but can I just ask, 19 my question was did you expect it to succeed? 20 A. In what? 21 Q. In its business, in terms of generating 22 income, to be a successful business perhaps? 23 A. In both aspects? 24 Q. I am happy for you to give an answer for each 25 or an oversight?</p> <p style="text-align: center;">Page 119</p> |
| <p>1 only exchange with the Attorney General in 2 relation to the criminal investigation or were 3 there more? 4 A. As far as I'm concerned, I don't know but I am 5 prepared to look over lunch and come back and 6 let you know. 7 Q. But from recollection can you recall any other 8 message exchanges with the Attorney General? 9 A. I really wouldn't be able to answer that 10 without seeing it. 11 Q. Can we now turn to 36 North? 12 A. Yes. 13 Q. I am going to --- thank you, I do not think 14 there is any dispute that you and David Webber 15 of Hassans assisted in incorporating 36 North 16 with Mr Perez and Mr Cornelio.? 17 A. That is correct. 18 Q. One of the main aims of 36 North was to 19 secure a contract for the maintenance of the 20 NSCIS platform. Is that correct? 21 A. Yes. 22 Q. Did the Chief Minister play any role in the 23 setting up of 36 North? 24 A. No. 25 Q. Did he have any role in relation to 36 North?</p> <p style="text-align: center;">Page 118</p> | <p>1 A. Well, on the question of the NSCIS contract, 2 there was --- at the beginning it seemed they 3 were going to succeed. Then it was clear quite 4 soon after that it didn't succeed but then the 5 issue of the international business was obviously 6 stymied by what has gone on since then. 7 Q. Can I please take you to B5318 --- sorry, 8 actually I have skipped over one by mistake. Can 9 we go, first of all, to B5161. I think you may 10 have a table in front of you which is called a cash 11 flow forecast? 12 A. Yes. 13 Q. The resolution is not great on my screen, it 14 may not be great for you either, but this is the 15 cash flow forecast for 36 North's first year. The 16 first row relates to NSCIS and I think I am right in 17 saying that the most substantial item of income 18 does relate to NSCIS. From this table or from 19 your recollection, did 36 North need to obtain 20 the NSCIS contract to be profitable in its first 21 year? 22 A. For certain. 23 Q. Then I referred to 5318, which is the next 24 document that I would like to take you to, 25 hopefully it is over the page for you, it is an</p> <p style="text-align: center;">Page 120</p> |

30 (Pages 117 to 120)

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| <p>1 email from you dated 30 August 2018.</p> <p>2 A. Yes.</p> <p>3 Q. You have that. This is an email to the Chief</p> <p>4 Minister's personal email address. The address</p> <p>5 is redacted for obvious reasons and your email</p> <p>6 says, "Tommy wants to send this. I have asked</p> <p>7 him to wait. What do you think." Below that is</p> <p>8 an email from Mr Cornelio to you with a draft ---</p> <p>9 with the wording of a draft email within it and it</p> <p>10 is a draft email, it seems to Mr Gaggero, the CEO</p> <p>11 of Bland, notifying him that he is no longer going</p> <p>12 to be maintaining the platform as from 1</p> <p>13 September 2018. Can I ask you why you sent</p> <p>14 this email to the Chief Minister?</p> <p>15 A. Yes, the position was that the relationship</p> <p>16 between Mr Perez and Mr Cornelio with Bland</p> <p>17 fluctuated. At the beginning I only got this</p> <p>18 information from them not from Bland. It was</p> <p>19 that Blands was quite happy to let them carry on</p> <p>20 with this part of the business on their own. After</p> <p>21 that, there were negotiations and Mr --- I think</p> <p>22 Blands asked them for 50 per cent of the</p> <p>23 company and they informed me of that and then</p> <p>24 they asked for 30 per cent. At that stage I said</p> <p>25 that Hassans was quite willing to drop out from</p> <p style="text-align: center;">Page 121</p> | <p>1 A. Because if this happened, there would have</p> <p>2 been a big problem with NSCIS and I thought</p> <p>3 that --- from what I heard, from --- mainly from</p> <p>4 Mr Cornelio and Mr Perez, the Chief Minister</p> <p>5 was also trying to avoid a split between them.</p> <p>6 Q. As far as you are aware, did the Chief</p> <p>7 Minister agree that Mr Cornlio could retain</p> <p>8 access to the NSCIS system after 30 August</p> <p>9 2018?</p> <p>10 A. I heard that there was some transition period</p> <p>11 but I don't remember the period, but there was</p> <p>12 a period where I think Mr Cornelio was</p> <p>13 transitioning the system to Blands.</p> <p>14 Q. Did you have any idea as to how long that</p> <p>15 period would be?</p> <p>16 A. No.</p> <p>17 Q. You raised the issue again with the Chief</p> <p>18 Minister on 11 September 2018, so if we can go</p> <p>19 to B1204, please, it should hopefully be in a</p> <p>20 rough order. This is a text message --- I think it is</p> <p>21 a WhatsApp message actually. I think you have</p> <p>22 got it now. I do not know whether you have the</p> <p>23 previous page but if we can at least put it on</p> <p>24 screen ---</p> <p>25 A. The previous page?</p> <p style="text-align: center;">Page 123</p> |
| <p>1 this business entirely because I thought that the</p> <p>2 thing, if it went out of hand, it would not be</p> <p>3 good for anybody. So I was trying to ensure that</p> <p>4 nothing terrible happened until they came to</p> <p>5 some agreement but that didn't happen. So this</p> <p>6 was an attempt to delay any letter which could</p> <p>7 upset any possibility of a settlement between</p> <p>8 the parties.</p> <p>9 Q. Just to clarify, is what you are saying that at</p> <p>10 the same time as this conversation --- as this</p> <p>11 email was sent, there were ongoing</p> <p>12 conversations between 36 North and Bland over</p> <p>13 potential joint venture or settlement that would</p> <p>14 result in a joint venture?</p> <p>15 A. That's my recollection, yes.</p> <p>16 Q. Why did you send this email to the Chief</p> <p>17 Minister's personal address?</p> <p>18 A. Very simple; I was on holiday and not</p> <p>19 extremely good at these things so I could have</p> <p>20 sent them to both for all I know. That is my</p> <p>21 explanation. I don't use a computer, I only use</p> <p>22 my phone.</p> <p>23 Q. Why did the Chief Minister need to know</p> <p>24 about a letter that Mr Cornelio was planning to</p> <p>25 send to Mr Gaggero?</p> <p style="text-align: center;">Page 122</p> | <p>1 Q. Yes, please. No, you do not --- I do not</p> <p>2 believe you have it but I am just going to bring</p> <p>3 this one up on screen for one second. This is a</p> <p>4 cover sheet, an exhibit cover sheet within the</p> <p>5 criminal investigation and the description of the</p> <p>6 exhibit is extracts of a WhatsApp message</p> <p>7 between Mr Levy and the Chief Minister dated</p> <p>8 12 September 2018 and the identification</p> <p>9 number in the top right is FP7, so it looks as</p> <p>10 though this was an exhibit to the Chief Minister's</p> <p>11 evidence. Just over the page there is a</p> <p>12 WhatsApp exchange which says at the top,</p> <p>13 "James Levy current," and it says as follows, "I</p> <p>14 assume the Gaggero issue is more complicated</p> <p>15 since I see you are reluctant to discuss it," and</p> <p>16 the response comes back, "No, just in the thick</p> <p>17 of the biggest issue in Europe right now." Then</p> <p>18 you say, "Good luck, happy to help in anything</p> <p>19 you need however small," and the response, "PG</p> <p>20 we are getting there, C." Was this an exchange</p> <p>21 with the Chief Minister?</p> <p>22 A. It seems --- I mean, I don't recall it but ---</p> <p>23 Q. Yes, sorry, I am only asking because of the</p> <p>24 sign off as C is slightly confusing to the team.</p> <p>25 Are you familiar with the sign off C?</p> <p style="text-align: center;">Page 124</p> |

31 (Pages 121 to 124)

1 **A. No.**
 2 Q. Right, but you believe, nevertheless, that it is
 3 an exchange with the Chief Minister?
 4 **A. It sounds like it, yes.**
 5 Q. Why did you say in your first message that
 6 you saw that the Chief Minister was reluctant to
 7 discuss the Gaggero issue?
 8 **A. Well, from what I have learned since is that**
 9 **he was talking to Mr Gaggero and at one stage, I**
 10 **don't know whether before or after this**
 11 **message, he agreed that Bland should be the**
 12 **person to have the NSCIS contract.**
 13 Q. At that point did he display a reluctance to
 14 discuss the matter with you?
 15 **A. I assume so, yes.**
 16 Q. Can we now turn to your criminal statement
 17 at paragraph 39 to 40 and those are at B3258,
 18 page 10 of your criminal witness statement.
 19 **A. Yes.**
 20 Q. This is a section entitled, "Any knowledge
 21 that he may have with regard to the tampering
 22 with and/or sabotage of the NSCIS platform,"
 23 and I am just going to read those paragraphs
 24 out, "I had no knowledge of or reason to suspect
 25 any tampering with and/or sabotage of the

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1 NSCIS system as alleged. The first time I recall
 2 becoming aware of the alleged tampering
 3 sabotage was after JP and TC were arrested
 4 when I was informed by them of what was being
 5 alleged and they strongly denied that any
 6 tampering or sabotage had taken place. I note
 7 from paragraph 12 of the pre-interview
 8 disclosure document that it is alleged that I
 9 became aware that digital forensic experts were
 10 conducting an investigation. As far as I recall I
 11 only became aware that digital forensic experts
 12 were conducting an investigation when JP and
 13 TC told me after they were arrested and
 14 released from police bail. I was neve aware of
 15 any alleged plan to sabotage the NSCIS platform
 16 or any computer misuse offences, nor would I
 17 countenance such behaviour." Does that remain
 18 your position as to when you found out about
 19 allegations of sabotage by Mr Cornelio?
 20 **A. No, because I think there is a message from**
 21 **Mr Cornelio to me that Blands had but I have**
 22 **seen that subsequently.**
 23 Q. I will show that to you but at the time of
 24 making that statement, had you seen that
 25 message?

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1 **A. I don't recall having seen it.**
 2 Q. Do you believe that Mr Cornelio's conduct
 3 was to sabotage rather than maintain NSCIS?
 4 **A. Certainly not.**
 5 Q. In terms of your role as far as 36 North was
 6 concerned, was it your intention to use your very
 7 close personal and professional connection with
 8 the Chief Minister to facilitate the migration of
 9 the contract?
 10 **A. No.**
 11 Q. What did you see your role as being?
 12 **A. As --- well, my firm's role as financing the**
 13 **project and being shareholders.**
 14 Q. Is your position that you yourself personally
 15 had no role in the project?
 16 **A. That's the way we do this type of work in the**
 17 **firm. I mean, we've done other projects and I**
 18 **certainly don't have any role. We invest in**
 19 **people.**
 20 Q. Did you consider whether it was appropriate
 21 for the Chief Minister to inform himself in the as
 22 to who would keep the maintenance contract,
 23 given that he was also a shareholder of Astelon
 24 which held an interest in 36 North?
 25 **A. Well, that is a matter which I am sure he**

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1 **cleared politically.**
 2 Q. Did you consider it?
 3 **A. No.**
 4 Q. Did you ever consider whether you might be
 5 benefiting from access to the Chief Minister
 6 which other people would not receive because
 7 of your relationship with him?
 8 **A. In this case somebody else had more access**
 9 **than I had, clearly.**
 10 Q. When you say "somebody else" who are you
 11 referring to?
 12 **A. Well, Mr Gaggero obviously had more access**
 13 **than I did.**
 14 Q. Did you ever consider that you might be
 15 benefiting from access which ordinary people,
 16 unlike Mr Gaggero, would not receive?
 17 **A. Well, in this situation it was Mr Gaggero and**
 18 **us. There were no other people involved. I**
 19 **understand --- the knowledge I have is that many**
 20 **people in Gibraltar have the Chief Minister's**
 21 **WhatsApp number and ring him for different**
 22 **things. I have had experience from being my**
 23 **uncle's partner and acted for Sir Joe Bossano for**
 24 **many years. Chief ministers get a lot of**
 25 **approach from ordinary people and they deal**

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| <p>1 with it.</p> <p>2 Q. Just for the chairman's benefit, when you</p> <p>3 refer to your uncle, you are referring to ----</p> <p>4 A. Sir Joshua Hassan, I am sorry.</p> <p>5 Q. A previous Chief Minister of Gibraltar.</p> <p>6 Did you ever consider whether you might be</p> <p>7 receiving information from the Chief</p> <p>8 Minister which ordinary people would not</p> <p>9 receive?</p> <p>10 A. Frankly, I have enough experience,</p> <p>11 having been the partner of a Chief Minister</p> <p>12 for 16 years, and acted for another Chief</p> <p>13 Minister for eight years, to know what the</p> <p>14 red lines are.</p> <p>15 Q. What do you consider the red lines to be?</p> <p>16 A. Well, to be careful, to be careful not to</p> <p>17 ask for any information which is not publicly</p> <p>18 available.</p> <p>19 Q. My final question of this nature is what</p> <p>20 about receiving treatment from the Chief</p> <p>21 Minister which other people would not?</p> <p>22 A. Well I mean, if it's legal work, personally</p> <p>23 I think I've got two pieces of legal work from</p> <p>24 the present Chief Minister since 2011. I do</p> <p>25 work for Sir Joe Bossano but that's the</p> <p style="text-align: center;">Page 129</p> | <p>1 assist. These are 79 to 82, set out in the</p> <p>2 information some messages from Mr</p> <p>3 Cornelio. Paragraphs 79 to 82 set out some</p> <p>4 messages from Mr Cornelio to you between</p> <p>5 February and May -- sorry, some in February</p> <p>6 and March 2019 and one on 3 May 2018. I</p> <p>7 just want to highlight that one of them is</p> <p>8 redacted and I would ask you in your</p> <p>9 answers in open session to steer clear of</p> <p>10 anything that you may know about the</p> <p>11 redacted material. If you feel at any stage</p> <p>12 that you would like to go into private to</p> <p>13 provide a fuller answer, please say so. I</p> <p>14 would ask --</p> <p>15 MALE SPEAKER: Forgive me for rising,</p> <p>16 but 2018 ... (inaudible)</p> <p>17 MR SANTOS: I am very grateful. First of</p> <p>18 all, I will give you the opportunity to read</p> <p>19 those and then I am going to ask you a</p> <p>20 question about them. I may as well read</p> <p>21 them out. 79 says, "On 18 February 2019,</p> <p>22 he", as in Cornelio, "wrote to Levy saying</p> <p>23 'Any merit in me writing to the Chief</p> <p>24 Minister directly to request he meet with me?</p> <p>25 I miss my contracts.'" On 26 March 2019 he</p> <p style="text-align: center;">Page 131</p> |
| <p>1 Government work that I do.</p> <p>2 Q. You're talking about you personally</p> <p>3 rather than Hassans as a firm or ...?</p> <p>4 A. Well, Hassans is a big firm. It receives</p> <p>5 work form Sir Joe Bossano's time, from Sir</p> <p>6 Peter Caruana's time, and from the present</p> <p>7 Chief Minister's time. It never received any</p> <p>8 work when Sir Joshua was Chief Minister.</p> <p>9 Q. Can we please go to B3740. I just want</p> <p>10 to focus on paragraphs 79 to 82 there.</p> <p>11 A. Yes.</p> <p>12 Q. This is the information which was laid</p> <p>13 before the Magistrates' Court in support of</p> <p>14 the search warrant --</p> <p>15 A. Sorry, it's not on screen.</p> <p>16 Q. Sorry about that.</p> <p>17 A. What paragraph? No, it is my fault.</p> <p>18 Q. 79 to 82. I don't know whether you have</p> <p>19 the whole document or whether you have --</p> <p>20 A. 79 to 82.</p> <p>21 Q. It should have a "4" at the bottom.</p> <p>22 THE CHAIRMAN: It is paragraphs 79 to</p> <p>23 84.</p> <p>24 A. Yes sir, thank you.</p> <p>25 MR SANTOS: I think Mr Triay has come to</p> <p style="text-align: center;">Page 130</p> | <p>1 wrote, "Perhaps the Chief Minister would be</p> <p>2 willing to put the National Security System</p> <p>3 out for tender next month." On 27 March</p> <p>4 2019 Cornelio again asked, "Do you think</p> <p>5 there is any chance of getting National</p> <p>6 Security Contract back at some point?"</p> <p>7 Despite his answer on 27 December 2018,</p> <p>8 Levy responded, "Yes." I will take you to</p> <p>9 your answer of 27 December 2018, which is</p> <p>10 above at paragraph 78, that is where Mr</p> <p>11 Cornelio was concerned that the Chief</p> <p>12 Minister would not be transferring the</p> <p>13 contract to 36 North and you wrote in</p> <p>14 response, "I don't think he will transfer the</p> <p>15 contracts back to 36 North. We have to work</p> <p>16 on alternatives. I'm happy to help." Then 82</p> <p>17 reads, "On 3 May 2018 Cornelio wrote again</p> <p>18 saying 'Dear James, the National Security</p> <p>19 System [then there is something redacted]</p> <p>20 can I email the CM once again to meet me?</p> <p>21 He cannot allow this to continue.'" Do those</p> <p>22 messages show, Mr Levy, that Mr Cornelio</p> <p>23 and Mr Perez expected you to use your</p> <p>24 relationship with the Chief Minister to open</p> <p>25 the door to the Chief Minister and to land the</p> <p style="text-align: center;">Page 132</p> |

1 contract?

2 **A. No, I think what it's saying is that is there**

3 **any way that this contract could be put to**

4 **tender, which is what should have been done**

5 **and should still be done, but it's a matter for**

6 **the Government not for me.**

7 Q. Can we now turn to A1515, please. This

8 is your second witness statement.

9 **A. Yes.**

10 Q. Paragraph 9.7. This is in response to an

11 allegation that was set out in a letter to you

12 by the Inquiry on the basis of something that

13 was said in Mr McGrail's third witness

14 statement and the allegation was that you

15 were "tipped off" about the RGP's interest in

16 you by someone in your close circle and that

17 the Chief Minister tipped you off on the

18 contested matter of the DPP advising the

19 RGP on the warrants. Your response is set

20 out in paragraph 9.7 where you say, "I object

21 to Mr McGrail's use of the term 'tipping off'

22 if, by using it, Mr McGrail is implying

23 improper behaviour. Given my firm's

24 involvement in 36 North, it could be

25 reasonably anticipated that the RGP might

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1 wish to speak to me, but not as a suspect,

2 which I only discovered, to my consternation

3 and bewilderment, on the date the RGP

4 sought to execute the warrants." When did

5 you learn that you were being investigated by

6 the RGP?

7 **A. I can't recall when, but I certainly didn't**

8 **expect the subsequent events. I mean, I was**

9 **always available to talk to the RGP but they**

10 **seemed to be on another route.**

11 Q. You say, "Given my firm's involvement

12 in 36 North it could be reasonably anticipated

13 that the RGP might wish to speak to me", at

14 what point do you think that you reasonably

15 anticipated that?

16 **A. I really cannot recall, I'm sorry.**

17 Q. Do you know how you learned that --

18 there are different concepts that we are

19 dealing with or struggling with at this

20 Inquiry. First, there is a suspect, and I think

21 your answer to that is that you weren't aware

22 that you were a suspect until 12 May 2020.

23 **A. Correct.**

24 Q. There is a witness or someone that fell

25 within the purview of the investigation and

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1 there is something that seems to be floating

2 in-between and not particularly defined,

3 which is a person of interest in the

4 investigation. In terms of a person of

5 interest, when did you learn, if at any point,

6 that you were a person of interest to the

7 investigation?

8 **A. I have seen emails, I think it is a**

9 **statement from the Chief Minister on**

10 **affidavit saying that he told me that. I**

11 **certainly don't recall that.**

12 Q. We will take you to that statement so that

13 you have the opportunity to comment on it.

14 Can we go to B151 please. This is a meeting

15 that took place between the AG, the DPP, the

16 Commissioner of Police, Superintendent

17 Richardson and Lloyd DiVincenzi, I believe,

18 in relation to the letter from Hassans in

19 response to the search warrants. Can I just

20 ask you to look at the bottom of the page.

21 **A. You said 151, A151?**

22 Q. B151 please. It may be the other file to

23 your right, which has the documents because

24 I think the one that you had open is your

25 witness statement. B151. You have it, yes.

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1 Just towards the bottom of the page, picking

2 up from about two thirds of the way down,

3 Superintendent Richardson says, "Yeah, he

4 asked about how we would deal with the

5 legally privileged material." Can you see

6 that, two-thirds of the way down?

7 **A. Who says that, Superintendent**

8 **Richardson?**

9 Q. Superintendent Richardson, "Yeah, he

10 asked ..."

11 **A. Yes.**

12 Q. "... about how we would deal with the

13 legally privileged material." The DPP says,

14 "Hmm." And Richardson says, "And asked

15 ... he asked for clarification. Did we think if

16 it would be compromised if we just asked for

17 the information which we handed over and

18 for the ... the reasons for that are clearly yes,

19 and ... and they were borne out yesterday.

20 You know, this wasn't 'I'm an officer of the

21 court here is our understanding and the

22 argument and therefore that he is ...'" And

23 the DPP says, "That he has known this for

24 months." And Superintendent Richardson

25 says, "Yes." And the DPP replies

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| <p>1 "Entonces", "Then, if I was ... I would say 2 okay. If you were not going to compromise 3 the information, but if this had been 4 knowledge, knowledge from Haim Levy for 5 months, I would have gone the ex parte 6 requirement is almost ... it goes out the 7 window." Do you agree with the DPP's 8 comment that you had known for months that 9 the RGP was investigating you? 10 A. No. 11 Q. What was your state of knowledge prior 12 to 12 May 2020? 13 A. I didn't have any ... I didn't think that 14 they were going to investigate me as a 15 suspect. I mean, I can tell you what 16 happened on 12 May. 17 Q. We will get to 12 May. But were you 18 aware of the arrests of Cornelio and Sanchez 19 and Perez? 20 A. Certainly. 21 Q. Now, if we -- actually I see the time. 22 THE CHAIRMAN: It is probably a good 23 time to break. 24 MR SANTOS: It is probably a good time. I 25 am about to take you to that passage in the</p> <p style="text-align: center;">Page 137</p> | <p>1 found it. 2 THE WITNESS: I don't think I have it, sir. 3 233 is sort of rubbed off. I look at it there. 4 MR SANTOS: Is it in your other bundle 5 perhaps? 6 A. I can look at it there. 7 Q. Thank you. I will just start again. "I 8 recall that I discussed with Mr James Levy 9 KC on a very large number of occasions the 10 fact that the RGP had suggested that he 11 might be a person of interest in the 12 investigation. He raised this with me 13 constantly when I spoke to him on other 14 matters. I consistently replied to him that I 15 was sure that the investigation would 16 exonerate him, given that, from what I knew 17 of him, I was sure that he would not have 18 acted in a manner which was contrary to the 19 law. In fact, this was also the conclusion 20 reached by the police when they made the 21 decisions about who to charge in 22 consequence of their Op Delhi investigation." 23 Do you agree that you discussed this matter 24 with the Chief Minister on a very large 25 number of occasions.</p> <p style="text-align: center;">Page 139</p> |
| <p>1 Chief Minister's statement, but we will do 2 that after lunch. 3 THE CHAIRMAN: Okay. We will break 4 for lunch. 2 o'clock. 5 THE WITNESS: Thank you, Sir. 6 (13.00) 7 (The short adjournment) 8 (14.00) 9 MR SANTOS: Good afternoon, Mr Levy. 10 A. Good afternoon. 11 Q. I was about to take you to A 233 which is 12 the Chief Minister's third statement, 13 paragraph 5. This is a section of a third 14 statement that the Chief Minister prepared in 15 response to some questions from the Inquiry 16 and he says in this section at paragraph 5: "I 17 recall that I discussed with Mr James Levy 18 KC on a very large number of occasions the 19 fact that the RGP had suggested that he 20 might be a person of interest in the 21 investigation. He raised this with me 22 constantly when I spoke to him on other 23 matters. I consistently replied to him that I 24 was sure that the investigation -- 25 THE CHAIRMAN: I do not think you have</p> <p style="text-align: center;">Page 138</p> | <p>1 A. I don't have recollection of that. 2 Q. When you say you do not have a -- 3 THE CHAIRMAN: Just so I -- 4 A. Sir, I don't have a recollection of 5 discussing this on numerous occasions. 6 MR SANTOS: When you say you do not 7 have a recollection, do you mean that to the 8 best of your recollection you did not have a 9 discussion? 10 A. Yes. 11 THE CHAIRMAN: At all? 12 A. I don't recall. 13 THE CHAIRMAN: He is saying that he 14 remembers discussing it on a very large 15 number of occasions. Are you saying that 16 you do not remember it being discussed on a 17 very large number of occasions, or you do 18 not remember it being discussed at all? 19 A. Sir, on numerous occasions, as he says. I 20 may recall discussing it once or twice but not 21 numerous occasions. 22 MR SANTOS: He refers to that phrase 23 "person of interest" and he says that he 24 discussed with you on a very large number of 25 occasions the fact that the RGP had</p> <p style="text-align: center;">Page 140</p> |

35 (Pages 137 to 140)

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| <p>1 suggested that you might be a person of 2 interest. Was that phrase "person of interest" 3 something that you used with him or that he 4 used with you? 5 A. I don't recall that actual phrase. 6 Q. Were you concerned about the RGP 7 investigation and how it related to you? 8 A. I wasn't concerned, but I was surprised 9 that I wasn't consulted, I wasn't contacted. 10 Q. Do you recall the dates or the rough dates 11 of these conversations with the Chief 12 Minister? 13 A. Certainly not, sorry. 14 Q. Do you have notes from any of those 15 conversations? 16 A. No. 17 Q. Did you consider whether it was 18 appropriate to communicate with the Chief 19 Minister about being a person of interest, 20 given that he too had an interest in 36 North 21 through Hassans? 22 A. I really was not concerned. I was talking 23 to him as a friend, which I would talk to 24 other people the same way, so he doesn't 25 have any function in prosecution.</p> <p style="text-align: center;">Page 141</p> | <p>1 to the legality of the warrants, I wish to 2 record that both Detective Superintendent 3 Richardson and Detective Inspector Wyan 4 were at all times polite and courteous 5 towards me." Do you stand by that evidence 6 of paragraph 4? 7 A. Yes. 8 Q. Superintendent Richardson has given 9 evidence to the Inquiry and said that he does 10 not recall referring to advice at the highest 11 level to you but he does recall a more general 12 conversation with Javier Chincotta in the lift, 13 and what he says he said to Mr Chincotta is: 14 "Please don't think that we've just taken 15 advice from a junior counsel. We have taken 16 advice at a high level. It wouldn't have been 17 specifically: 'We have taken advice regarding 18 the search warrant' but about the intervention, 19 given that we had taken advice about 20 considering JL as a suspect." Does that 21 accord with your recollection of what 22 happened? 23 A. No. I remember that Superintendent 24 Richardson told me that they'd taken advice 25 at the highest level. There was one other</p> <p style="text-align: center;">Page 143</p> |
| <p>1 Q. Can we go to B 5229, please. 2 A. Yes. 3 Q. This is again your witness statement in 4 the criminal proceedings which you should 5 have in front of you. At paragraph 4 you 6 refer to 12 May 2020 and you say: "On 12 7 May 2020 Detective Superintendent Paul 8 Richardson and other officers of the Royal 9 Gibraltar Police attended the offices of my 10 firm in Madison Building Midtown with 11 search warrants. I was told that if I did not 12 cooperate in granting access to the office 13 premises and my home, search warrants 14 would be executed. I was astounded to learn 15 that search warrants had been applied for and 16 issued against me. When I raised this with 17 Detective Superintendent Richardson I was 18 told that advice had been obtained from the 19 highest level, which I understood to be the 20 Director of Prosecutions. I cooperated with 21 the RGP and granted access as requested to 22 both my offices and home, as I would have if 23 search warrants had not been obtained, 24 subject to my professional duties and 25 personal rights. Despite my strong objection</p> <p style="text-align: center;">Page 142</p> | <p>1 thing. They contend that Superintendent 2 Richardson didn't know what is the 3 (inaudible) consequences. Well, I remember 4 I was at home and I spoke to him on the 5 phone and he said to me: "If you don't come 6 now, there will be consequences." So that 7 may be his note but I remember that. 8 Q. Just going back to the advice at the 9 highest level, when do you say that he said 10 that to you? At what point in your 11 interactions with him? 12 A. At the very beginning. 13 THE CHAIRMAN: Even on the phone 14 perhaps, do you mean? 15 A. No, sir. I think when I went to the office. 16 THE CHAIRMAN: When you went to the 17 office. You ended up in the boardroom. 18 A. Yes. 19 THE CHAIRMAN: What happened in the 20 boardroom was recorded. 21 A. No, before the recording. There was a 22 conversation before the recording. 23 MR SANTOS: At what point in your 24 interaction with Superintendent Richardson 25 and Inspector Wyan did the recording</p> <p style="text-align: center;">Page 144</p> |

36 (Pages 141 to 144)

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| <p>1 commence?</p> <p>2 A. I don't recall. He did at one stage put the</p> <p>3 recording on.</p> <p>4 Q. Can we go to A 1511, please. This is your</p> <p>5 second witness statement at paragraph 8. I</p> <p>6 just want to pick it up from about five lines</p> <p>7 from the bottom. There is the sentence that</p> <p>8 starts: "It was equally baseless..." Can you</p> <p>9 see that?</p> <p>10 A. One?</p> <p>11 Q. 1511. There is a paragraph 8. It should</p> <p>12 be page 3 of your second witness statement.</p> <p>13 A. Yes, I have that.</p> <p>14 Q. About five lines from the bottom towards</p> <p>15 the end of the line there is a sentence that</p> <p>16 starts: "It was equally baseless..." Do you</p> <p>17 have that?</p> <p>18 A. Yes.</p> <p>19 Q. You say - this is in response to allegation</p> <p>20 three which says: "Mr Richardson's</p> <p>21 allegations that there were good grounds for</p> <p>22 seeking a search warrant rather than a</p> <p>23 production order against me." You say: "It</p> <p>24 was equally baseless to claim that any other</p> <p>25 methods of obtaining the material were</p> <p style="text-align: center;">Page 145</p> | <p>1 This is a transcript of a meeting on 15 May</p> <p>2 between Mr McGrail, Mr Richardson, Mr</p> <p>3 Wyan and the Attorney General and the DPP</p> <p>4 and Mr Devincenzi. Half way down the page</p> <p>5 just below the entry that is marked 2824</p> <p>6 there is an entry that says: "Superintendent</p> <p>7 Richardson just before he is interviewed."</p> <p>8 Can you see that?</p> <p>9 A. 2824?</p> <p>10 Q. Yes, the second box in that section.</p> <p>11 "Superintendent Richardson just before he is</p> <p>12 interviewed." Then the CoP, Commissioner</p> <p>13 of Police, Mr McGrail says: "He was asked</p> <p>14 to return and between him being asked to</p> <p>15 return for him to (... reading to the words ...)</p> <p>16 his phone, and we have evidence of that."</p> <p>17 That is a reference not to you; that is a</p> <p>18 reference to Mr Sanchez. Then</p> <p>19 Superintendent Richardson responds:</p> <p>20 "Including the conversations between him</p> <p>21 and Haim, and then Mr Rocca said: "The</p> <p>22 concern I have in relation to this" - well,</p> <p>23 actually we do not have to go beyond that. I</p> <p>24 just want you to respond to that. The</p> <p>25 Commissioner of Police says, referring to</p> <p style="text-align: center;">Page 147</p> |
| <p>1 bound to fail ... and that there was a 'fear' of</p> <p>2 my defacing or destroying that information if</p> <p>3 given notice of a Production Order... There</p> <p>4 was not a shred of evidence to support the</p> <p>5 alleged 'fear' referred to in the application for</p> <p>6 the warrants. To the contrary, the evidence</p> <p>7 shows that I cooperated with the RGP the</p> <p>8 moment I was contacted, so that the warrants</p> <p>9 did not have to be physically executed even</p> <p>10 though I made clear to the RGP I considered</p> <p>11 them unlawful." Mr Richardson and</p> <p>12 Superintendent Wyan have given evidence to</p> <p>13 the Inquiry that they did not want to make the</p> <p>14 application on notice as they feared you may</p> <p>15 have destroyed evidence. What is your</p> <p>16 response to that?</p> <p>17 A. I think that is entirely baseless.</p> <p>18 Q. Can we go to B 278, please.</p> <p>19 A. 278?</p> <p>20 Q. Sorry, I think this is another transcript,</p> <p>21 like the one that I took you to this morning,</p> <p>22 so it might be in the other file in front of you,</p> <p>23 to your right.</p> <p>24 A. I think I can see them.</p> <p>25 Q. If you are happy to look at it, that is fine.</p> <p style="text-align: center;">Page 146</p> | <p>1 Sanchez, that he had been asked to return and</p> <p>2 between being asked for him to return and</p> <p>3 for him to land in Gibraltar he was wiping his</p> <p>4 phone, including conversations between him</p> <p>5 and you. Do you consider that that was a fair</p> <p>6 justification for the RGP to consider that</p> <p>7 there was a risk of you too wiping your own</p> <p>8 devices?</p> <p>9 A. No. I'm a professional officer of the</p> <p>10 court.</p> <p>11 Q. Is it correct that you cooperated with the</p> <p>12 RGP from the moment you were contacted?</p> <p>13 A. I took advice.</p> <p>14 Q. Why did you cooperate?</p> <p>15 A. Well, because I thought that it's better</p> <p>16 than having a warrant executed, and I didn't</p> <p>17 have anything to hide.</p> <p>18 Q. When you say that you took advice,</p> <p>19 obviously I am not going to ask you to stray</p> <p>20 into the advice that you took. Roughly how</p> <p>21 long did it take to obtain advice?</p> <p>22 A. Probably 45 minutes, an hour.</p> <p>23 Q. Can we now go to B 112, please. This is</p> <p>24 probably earlier on in the file that you have</p> <p>25 because it is another transcript, this time of a</p> <p style="text-align: center;">Page 148</p> |

37 (Pages 145 to 148)

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| <p>1 meeting on 13 May. I actually took you to a 2 different part of this meeting but it is similar 3 characters except that we have Mr 4 Devincenzi instead of Inspector Wyan. 5 Towards the bottom of the page, in fact the 6 last box, Superintendent Richardson says: 7 "He handed it over after exhausting all legal 8 avenues to challenge it. He wouldn't even 9 come to his own office. He told me he 10 wouldn't come in." Do you accept that 11 account of your interaction with 12 Superintendent Richardson? 13 A. No. I said I would take legal advice, and 14 I did. It took him and I took legal advice, 15 and when Superintendent Richardson came 16 to my office I pointed to him to my two 17 personal cupboards and offered to open them. 18 He said no, he didn't need to see them. I then 19 - he came home, he came to my study, and I 20 offered again to open whatever thing was 21 locked, which in my study is probably one 22 drawer that is locked, and he said he didn't 23 need it. It wasn't a question of exhausting; it 24 was a question of being shocked. For me this 25 was a very shocking experience and at my</p> <p style="text-align: center;">Page 149</p> | <p>1 hand over the device? 2 A. I really can't remember. 3 Q. Can we now go to B 3467, please. This 4 now is another transcript. It should have 5 black banners at the top and bottom. It 6 should be in the same file. 7 A. Yes, I can see it okay. 8 Q. Thank you. Let's work from the screen. 9 Towards the bottom of the page you say 10 about five boxes from the bottom: "You are 11 not giving me any special privileges." 12 Would you accept that the RGP did treat you 13 differently to Mr Perez, Mr Cornelio, Mr 14 Sanchez and Mr Asquez? 15 A. I don't know how they treated them. I 16 have said throughout that both 17 Superintendent Richardson and Inspector 18 Wyan were always courteous. 19 Q. Do you accept that the RGP took the 20 unusual step of allowing you to give a 21 voluntary statement even though you were at 22 stage a suspect? 23 A. Yes. 24 Q. And do you also accept that 25 Superintendent Richardson searched your</p> <p style="text-align: center;">Page 151</p> |
| <p>1 age at the time, there was Covid; I must tell 2 you that it is my belief that a person can go 3 just to carry on in life, my religious belief 4 that allowed me to carry on. I was absolutely 5 shocked. 6 Q. Can I just ask you to go over the page to 7 B 113, please. Superintendent Richardson 8 says - they continue to discuss. Mr Llamas 9 asks him: "And do you think his reaction 10 would have been different if he didn't have a 11 search warrant?" He said: "Then how would 12 I have forced the issue? It took nine hours of 13 persuading to hand it over with a warrant." I 14 think that he is referring to your mobile 15 device. Do you agree that it took nine hours 16 of persuading you to hand over your device? 17 A. No, he was there before at (inaudible) for 18 quite some time. And then I took time to 19 come from my house. I really didn't want to. 20 That day was Manna, a religious festival. 21 Then I was told over the phone, "If you don't 22 come there will be consequences." So since I 23 know where the power is in those 24 circumstances, I came. 25 Q. How long do you say it took for you to</p> <p style="text-align: center;">Page 150</p> | <p>1 home and your office alone rather than 2 accompanied by other officers? 3 A. Yes. 4 Q. Why did that occur? 5 A. I don't know. 6 Q. Mr Richardson's evidence is that you 7 asked for it to be only him. 8 A. No, I said, with respect, I said that I 9 wanted him in the search. 10 Q. So your evidence is that you did not ask 11 for him alone, you just wanted him. 12 A. That is correct. 13 Q. Can we go to C 3522 please. It should be 14 a copy of the document that was handed to 15 you on 12 May. 16 A. Yes. 17 Q. I think you might have it there. 18 A. Yes. 19 Q. This is, as I say, the document that was 20 handed to you on 12 May and it referred to 21 voluntary attendance for police interview 22 under caution. If we can turn over the page, 23 please, the final sentence on this document, 24 the final paragraph says: "The content 25 disclosed in this document has been provided</p> <p style="text-align: center;">Page 152</p> |

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| <p>1 in order to assist you in responding to the 2 police enquiries and instructing legal 3 representation. This is an ongoing police 4 investigation and the information provided 5 herein must not be disclosed to any third 6 party without authority of the Royal Gibraltar 7 Police." Did you disclose any of the 8 information in the document to anyone other 9 than your lawyers? 10 A. No. 11 Q. Did you disclose it to the Chief Minister? 12 A. No. 13 Q. To the Attorney General? 14 A. No. 15 Q. On the same page there was a list of topic 16 areas to be explored in the interview. Point 17 nine there refers to communication with the 18 Chief Minister in relation to any of the 19 above." Given that the topic areas which 20 they sought to explore in a formal interview 21 under caution included your communications 22 with the Chief Minister in relation to any of 23 the above, did you consider whether it was 24 appropriate to communicate with him about 25 the request for an interview?</p> <p style="text-align: center;">Page 153</p> | <p>1 going to be exploring that matter, did you 2 consider whether it was appropriate to 3 communicate with the Chief Minister in 4 relation to this issue? 5 A. I didn't communicate the fact that that 6 was in the document but I didn't think that 7 there was a restriction of speaking to anyone 8 on this matter. 9 Q. Can we now go to A 11, please. This is 10 Mr McGrail's witness statement at paragraph 11 34. 12 A. Yes, I've got it here. 13 Q. This is in relation to a meeting on 12 May 14 between the Chief Minister, the Attorney 15 General and Mr McGrail. Mr McGrail says 16 four lines from the bottom: "The CM also 17 made a passing but seemingly unconnected 18 comment that he had earlier that morning 19 been speaking to JL about the reopening of 20 the places of worship. This related to the 21 pandemic." Do you recall that conversation 22 with the Chief Minister? 23 A. Yes. 24 Q. Can we please go to A 1515. That is 25 your witness statement, your second witness</p> <p style="text-align: center;">Page 155</p> |
| <p>1 A. I didn't understand the question. 2 Q. Sorry. Item nine on the list makes clear 3 that one of the topic areas which -- 4 A. What I have is -- 5 Q. I am so sorry; I think you have the wrong 6 page. 7 A. The redacted. 8 Q. No, that is not the document. Sorry. 9 A. If you want to -- 10 Q. Yes, why not work from the screen. 11 There is a list of 11 items there. The ninth 12 item -- 13 THE CHAIRMAN: This is the document 14 that you were handed by the police when 15 they came to the office on 12 May. 16 MR SANTOS: The one on the screen. You 17 have it there. 18 A. Yes, I had that but you said to move on to 19 page C. 20 Q. Let us just stay on that page. Item nine 21 on that list is "Communication with the Chief 22 Minister in relation to any of the above." 23 That was one of the topic areas which the 24 RGP intended to explore in formal interview 25 under caution. Given that the interview was</p> <p style="text-align: center;">Page 154</p> | <p>1 statement, at paragraph 9.6. 2 A. A 1515? 3 Q. Yes. This one will be in your other file, 4 your second witness statement. 9.6, in 5 response to an allegation 4F which says: "Mr 6 Levy and the Chief Minister were in actual 7 communication with each other at the time 8 the investigating officers were at Hassans 9 with the warrant, which amounted to 10 inappropriate behaviour." That is an 11 allegation made by Mr McGrail in his fifth 12 witness statement at paragraph 118. Your 13 response to that is to say: "I did not 14 communicate with the Chief Minister at the 15 time that the investigating officers were at 16 my office, as Mr McGrail conceded at 17 paragraph 118 of McGrail 5, this is just 18 suspicion on his part. I can confirm that this 19 allegation is incorrect." Did you 20 communicate with the Chief Minister at any 21 other time on 12 May 2020? 22 A. Apart from one of the places of worship, 23 yes. 24 Q. Well, apart from the places of worship. 25 Do you remember what time of day the</p> <p style="text-align: center;">Page 156</p> |

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| <p>1 places of worship conversation took place? 2 A. No. 3 Q. And other than the places of worship, 4 what communications did you have with the 5 Chief Minister? 6 A. I just either - I rang him to tell him that 7 there was a - I'm on my way to deal with a 8 warrant. 9 THE CHAIRMAN: You rang him, you rang 10 the Chief Minister to tell him. 11 A. Yes. I rang a few people on the way. I 12 rang some of my children and I rang some 13 friends, some legal friends, in the United 14 Kingdom. 15 MR SANTOS: What exactly did you say to 16 the Chief Minister? 17 A. It was a two-minute or less conversation 18 saying: "You probably do know or don't 19 know but I'm on my way to the office to deal 20 with a warrant." 21 Q. At this time were the police officers at 22 your office? 23 A. But not with me. 24 THE CHAIRMAN: Why did you ring him? 25 A. I said, sir, I rang a few friends because I</p> <p style="text-align: center;">Page 157</p> | <p>1 acted in executing a search warrant at his 2 home." Do you recall the Chief Minister 3 saying that to you? 4 A. About the warrant not at my home, 5 because it wasn't at my home. I was on the 6 way to the office. That's my recollection. 7 Q. So your recollection. Do you recall him 8 expressing consternation? 9 A. Yes. On the warrant. 10 (14.27) 11 Q. On the warrant. "I do not recall the 12 precise method by which we spoke. I may 13 have been able to reach him on his home 14 number or the office number, as Mr Levy KC 15 has an office extension at his home. I also 16 recall speaking to Mr Levy KC in addition to 17 the warrants about his position and concerns 18 as leader of the Jewish community on access 19 places of worship, which was then a thorny 20 issue in the context of lockdown. I cannot 21 now recall the order in which these issues 22 were discussed between us on that day or the 23 times at which we did so." Then 14, 24 "Gibtelecom have provided me with their log 25 record of my outgoing mobile telephone</p> <p style="text-align: center;">Page 159</p> |
| <p>1 was very shocked at what was happening, so 2 I just rang random friends and a couple of my 3 children. I rang him, I rang two friends of 4 mine, barristers in England. 5 THE CHAIRMAN: You mean you were 6 ringing him as a friend rather than ringing 7 him as Chief Minister. Is that what you 8 mean? 9 A. Absolutely. 10 THE CHAIRMAN: Is that what you mean? 11 A. Yes, sir. 12 MR SANTOS: Can we look at A 234, 13 please, which is the Chief Minister's third 14 witness statement, paragraph 12. This is a 15 section which - there is a typo I think. It is 16 headed: "Contact with James Levy on 12 17 May 2020 between 12.20 and 13.00 hours." 18 The Inquiry asked the Chief Minister to 19 provide evidence as to any contact between 20 those two times. He says: "I recall, because 21 the date is noteworthy by virtue of these 22 events, that I spoke to Mr Levy on the 23 telephone on 12 May. I do not recall the time 24 at which I spoke to him. I expressed to Mr 25 Levy my consternation at how the police had</p> <p style="text-align: center;">Page 158</p> | <p>1 traffic on that day. I can confirm that none 2 were to James Levy, nor were there any calls 3 during the period 12:20-13:00 hrs. In so far 4 as concerns incoming calls, I am advised by 5 my private secretary that Gibtelecom has 6 informed him that they have no such 7 information available to provide because this 8 has long-since been deleted by them in 9 consequence of their data retention policy in 10 accordance with their obligations under the 11 Data Protection Act. I am however entirely 12 content to confirm, as I have done above, that 13 such calls occurred." So, my reading of that 14 paragraph is that the Chief Minister confirms 15 that calls took place between 12.20 and 13.00 16 hours. Do you agree with that evidence by 17 the Chief Minister. 18 A. I - I - I don't recall the precise time when 19 I was called by Superintendent Richardson, 20 but I think it was around that time. 21 Q. Right, that's correct. 22 A. It's important, also, this question of nine 23 hours. It took quite a bit of time for one of 24 the heads of my IT dep-- department, we 25 have two heads, and... a technical officer of</p> <p style="text-align: center;">Page 160</p> |

40 (Pages 157 to 160)

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| <p>1 the RGP to come to my office to mirror the 2 phones. It took time to find the RGP 3 technician, and then for this process to take 4 place. 5 Q. Can we look at B3476, please. 6 A. B? 7 Q. 3476. I do not know whether you will 8 have this one, because -- 9 A. Perhaps, that would seem. (?) 10 Q. -- it is just something that is on the back 11 of something that you have said. This is the 12 same transcript of the conversation that took 13 place at your office with the police officers, 14 and I was just asking you about Mr 15 Richardson's evidence that you asked him to 16 go alone to your home and office. Just 17 picking up... Yes, at 230, at the very bottom, 18 there is an entry by you, "Right, so first I can 19 - can I show you my office, so you can see?", 20 and Superintendent Richardson says, 21 "Okay.", and you say, "Let me show one of 22 you.", and Superintendent Richardson says 23 "Yeah, I'm happy to go.", and you say "Sir, 24 do you mind if we get the consent just signed 25 off before we - are you happy to sign the</p> <p style="text-align: center;">Page 161</p> | <p>1 discussions with the Attorney General on a 2 different matter at the time? 3 A. Probably, but I don't recall. 4 Q. Then your next message says, "Certainly 5 not by you", and the response from the 6 Attorney General is, "Don't worry". What 7 did you understand the Attorney General to 8 mean by "Don't worry"? 9 A. Well, I assumed that fairer minds were 10 going to be engaged in that particular issue, 11 that particular issue. My objection was that I 12 thought that the right situation was for me to 13 get a production order. And I still believe 14 that, but what happened, happened. 15 Q. Can we look now at A1354, please. This 16 is your first witness statement... Sorry, so if 17 it is your witness statement we are probably 18 in the other bundle. 19 A. Oh, yes. A1314. 20 Q. 1354. Your first statement, paragraph 21 eight. 22 A. Yeah, I've got it. 23 Q. You refer to the fact that you instructed 24 Lewis Baglietto KC and Charles Bonfante of 25 your firm to represent your interests.</p> <p style="text-align: center;">Page 163</p> |
| <p>1 consent? But let's - let me - let me just see 2 what it is, because I may have to go back to 3 get legal advice." So, would you agree that it 4 looks there like you may have asked just one 5 officer of the RGP to go with you to look at 6 your office? 7 A. That looks - I don't deny that, but I didn't 8 object to anybody coming. I just said I 9 preferred one coming, but not that I objected 10 to two coming. 11 Q. Can we now go to 6901, please. 12 A. Six? 13 Q. 6901. This is the page that you were just 14 on, that is very heavily redacted. 15 A. Oh yes, on - on. 16 Q. Yes. 17 A. Hopefully you can read it on screen. 18 Q. This is an exchange which we have 19 already referred to today, but now I just want 20 to address it directly. This is 13 May 2020 at 21 three minutes to nine in the evening, a 22 message by you to the Attorney General 23 saying, "On the other matter, I feel I've been 24 hung out to dry". Just pausing there, are we 25 to interpret from that that you were in</p> <p style="text-align: center;">Page 162</p> | <p>1 A. Yes. 2 Q. Did you consider whether they might be - 3 Mr Baglietto might be conflicted, because he 4 too owned a stake in Astelon and therefore 5 36 North? 6 A. No, I didn't consider that. 7 Q. Were you involved in drafting or 8 approving the letters that Mr Baglietto sent to 9 the RGP on your behalf? 10 A. No. 11 Q. To the extent that you are able to go into 12 it without delving into privileged 13 information, because we are not seeking 14 privileged information from you, were you 15 kept informed as to interactions between Mr 16 Baglietto and the Chief Minister? 17 A. Not generally, I would say. In fact, 18 mostly not. 19 Q. Do you remember being informed of any, 20 in particular, interactions 21 A. I don't believe so (?) but mostly it was 22 done - for instance I didn't know until I saw it 23 in the papers that my son had gone to a 24 meeting with the Attorn-- with the Attorney 25 General. So, that was the extent... I think</p> <p style="text-align: center;">Page 164</p> |

41 (Pages 161 to 164)

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| <p>1 you must remember one thing: that this was 2 very traumatic for me, so I - I wasn't facing a 3 lot of the issue-- the practical issues in - you 4 know, after what had happened. I mean, I 5 think that the RGP's treatment was totally 6 unfair, and this is something which is not yet 7 finished, but that is - I was in a very bad 8 mental state, I admit it. 9 Q. I asked you about interactions with the 10 Chief Minister. Just for completeness, what 11 about - were you kept informed about 12 interactions with the Attorney General or 13 with the Director of Public Prosecutions? 14 A. Not in any detail. I wasn't in a frame of 15 mind to deal with it, actually. 16 Q. So, does that mean that you were given 17 general updates as to communications? 18 A. I don't even recall general updates, to be 19 honest with you. 20 Q. Did Mr Baglietto forward to you copies 21 of any of the exchanges he was having with 22 these officials? 23 A. I don't recall seeing them, and - but I'm 24 prepared to look and - and report. 25 Q. Thank you. Did the Chief Minister share</p> <p style="text-align: center;">Page 165</p> | <p>1 number of years, but I don't see a - any 2 difficulty. The Attorney General can say: I'll 3 talk to you, or I won't. But I don't see any 4 difficulty, and when I read about the 5 information shared with other people in the 6 investigation who are not lawyers, then I am 7 more reassured in - in what I'm saying. 8 Q. Can we go to your second witness 9 statement at paragraph 9.4, please. 10 A. Which statement, the first? 11 Q. The second witness statement, please. 12 Page six. 13 A. Yes, thank you. 14 Q. This is in response to an allegation that 15 refers to a letter of 15 May by Hassans, 16 which contains information as to alleged 17 advice that had been given by the DPP on the 18 warrant. And the allegation 4(e) says, "The 19 information in Hassans' letter of 15 May 20 2020 could only have come from the Chief 21 Minister and was 'an improper 22 communication by the CM' which had left 23 Mr McGrail 'totally sold out' on the matter". 24 That is what Mr McGrail says in his third 25 witness statement, paragraph 170R. We say,</p> <p style="text-align: center;">Page 167</p> |
| <p>1 information about Operation Delhi with you, 2 which he had received from the RGP or the 3 DPP? 4 A. Not with me. 5 Q. When you say not with you, do you know 6 whether he shared that information with 7 anybody at Hassans? 8 A. I don't know. 9 Q. What about the Attorney General, did he 10 share information about Operation Delhi with 11 you? 12 A. With me, certainly not. 13 Q. And anybody else at Hassans? 14 A. It could be, with Mr Baglietto. 15 Q. Do you think that it was proper or 16 improper for the Attorney General to share 17 such information with Hassans? 18 A. I think that a lawyer is entitled, in the 19 circumstances, to ask the Attorney General 20 and any other person involved in the 21 prosecution as to the way things are going, 22 and making representations. I mean, unless 23 there is something which I don't - you know, 24 one doesn't know all the law specially, I 25 haven't practised criminal law for a numb--</p> <p style="text-align: center;">Page 166</p> | <p>1 "The Inquiry understands this to be a 2 reference to Hassans' statement in that letter 3 that: 'we believe is the case, the DPP advised 4 the Commissioner against the making of 5 these application". And you say, 9.4, "I see 6 that Mr McGrail also repeats this allegation 7 in his Fifth Affidavit. Nearly four years after 8 the event, I do not recall how my legal 9 representative, Mr Baglietto, may have been 10 given to understand that the DPP had advised 11 against the making of the application for the 12 warrants. However, even if this information 13 came from the Chief Minister, I do not 14 consider it improper for my legal 15 representative to have been told this when the 16 RGP had, whilst at my office with the 17 warrants, told me that they had taken advice 18 'from the highest level' or similar words." Do 19 you stand by that position even if the Chief 20 Minister had obtained that information about 21 the DPP in his official capacity? 22 A. I think lawyers can talk to whoever they 23 have to, to find out what is going on, and I 24 reiterate that when I read what other 25 information was conveyed to non-lawyers in</p> <p style="text-align: center;">Page 168</p> |

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| <p>1 this investigation, you know, it really... one 2 (?) - I wonder why it's - it's so vital. 3 Q. Can we go to B271, please. 4 A. B27... 5 Q. 271. This is back to the 15 May meeting 6 and the transcript of the 15 May meeting. 7 A. I had better see it, I think. 8 Q. Yes. And at 8.17, on the left-hand 9 margin, Mr Llamas (responding to the 10 Commissioner of Police) says, "Correct. 11 Christian and I are with you entirely on that. 12 What we think would be helpful for the 13 management of the whole thing is, if that 14 interview would still go ahead but not have it 15 under caution." Was that your idea, an 16 interview not under caution? 17 A. Certainly not. 18 Q. Was that Mr Baglietto's idea? 19 A. I don't know. 20 Q. Do you know whether Mr Baglietto had 21 proposed it to the Attorney General? 22 A. It could be, I don't know. 23 Q. Then, at the bottom of that page the DPP 24 says, "and this is the point that the AG is 25 going to make now, I think. We believe -</p> <p style="text-align: center;">Page 169</p> | <p>1 going to say a word," was that something that 2 either you said or you instructed Mr Baglietto 3 to say to the -- 4 A. I did not instruct Mr Baglietto to say I 5 would. I would have weight what - I think, 6 by the way, that the - the - the investigation 7 was thoroughly unfair generally, but I don't 8 shy away from - from giving my side of the 9 story. 10 Q. Can we go to C6883, please. This will be 11 in the right-hand bundle, sorry. 12 A. C? 13 Q. 6883. This is another heavily redacted 14 page -- 15 A. Oh, yes. 16 Q. -- that is the one. 17 A. Yes, I've got it. 18 Q. These are messages between the Attorney 19 General and Mr Baglietto in May 2020. We 20 can see that on 13 May (the first entry, the 21 day after the warrant) Mr Baglietto says, "M, 22 can I call you?", and then there are two 23 missed calls. 24 A. Sorry (?), I have it all redacted. 25 Q. All redacted?</p> <p style="text-align: center;">Page 171</p> |
| <p>1 we're led to believe that if we go under 2 caution he's not going to say a word, to the 3 extent that he may not even attend. But at 4 the very least, if you do arrest him he's not 5 going to give you anything. Then, we're 6 discussing whether that is good or bad. I 7 think it leaves us with a problem evidentially, 8 and I think it leaves us with - in a position 9 whereby I've had my reservations, you know, 10 about whether we have enough on Haim at 11 the moment. I don't think we were quite 12 across the line with Haim and we wouldn't 13 proceed, so I would rather get information 14 from him that may either incriminate him, if 15 it does - fantastic". Just focusing on his 16 words, "we're led to believe that if we go 17 under caution he's not going to say a word, to 18 the extent that he may not even attend", is 19 that something that you or Mr Baglietto told 20 the DPP or the AG? 21 A. I don't know what Mr Baglietto the... 22 But I certainly would have attended anything 23 that I legally had to attend. 24 Q. What about the first sentence, "we're led 25 to believe that if we go under caution he's not</p> <p style="text-align: center;">Page 170</p> | <p>1 A. Yes, after "Only my views". (?) 2 Q. Maybe over the page? 3 A. I don't have that page? 4 Q. Previous page? Sorry, we will try 5 previous page; if not, we will go to the... 6 A. Yes. 7 Q. There we go. 8 A. That one. (?) 9 Q. 13 May, 3.32, "M, can I call you?" And 10 then 6.39, 6.48, two missed voice calls. Did 11 you ask Mr Baglietto to contact the Attorney 12 General on your behalf? 13 A. Mr Baglietto was acting on my behalf. 14 Q. And did you ask him to contact Mr... 15 A. I -- 16 Q. -- Llamas? 17 A. I mean, no. But he - he acts on my 18 behalf. 19 Q. The Attorney General was meeting with 20 the RGP about how the RGP should respond 21 to the letters from Hassans. Given that that 22 was the case, do you consider that it was 23 nevertheless appropriate for the Attorney 24 General to also be in communication with Mr 25 Baglietto?</p> <p style="text-align: center;">Page 172</p> |

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| <p>1 A. I wouldn't say inappropriate; I think it is 2 appropriate for the Attorney General to 3 communicate with a lawyer. 4 Q. What role do you see the Attorney 5 General as playing, in that scenario? 6 A. He is the head of - of - he is the head of - 7 of - of the legal profession, the - the 8 Government's lawyer. 9 Q. Can we go to B1422, please. These are 10 messages between the Chief Minister and Mr 11 Baglietto in May 2020. I am just going to 12 pick up on 14 May, the Chief Minister sends 13 a message at 4.55 in the afternoon, can you 14 see that about a third of the way down the 15 page? 16 A. Yes. 17 Q. "The last limb refers", and then the next 18 message, "Dismissal with total loss or 19 reduction of pension benefits, forfeiture of 20 pension benefits, will be used as a 21 disciplinary measure only only in Os (?) 22 where the police officer is convicted of 23 treason or some other offence which is 24 gravely injurious to the state or is liable to 25 lead to serious loss of confidence in the</p> <p style="text-align: center;">Page 173</p> | <p>1 or under any statutory provision or rule of 2 law, the Magistrate's Court may, on the 3 application either by a member of the force 4 or by a claimant of the property, make an 5 order for the delivery of the property", etc, 6 etc. That appears to be a reference to the 7 provision allowing for applications to the 8 Magistrates Court to retrieve property that 9 has been taken by the police in a criminal 10 investigation. Were you aware that the Chief 11 Minister had raised that with Mr Baglietto? 12 A. No. 13 Q. And, do you know why the Chief 14 Minister raised that? 15 A. I don't know why, and I wasn't aware it 16 was raised. 17 Q. Can we go to B5419, please. 18 A. B? 19 Q. 5419. This is a copy of the letter... 20 Sorry, I will let you get to it. I think that is 21 the one. This is a copy -- 22 A. Yes, I've got it. (?) 23 Q. -- of the letter of 15 May, which we were 24 just discussing earlier. And, I am going to 25 take you to the sentence that we were</p> <p style="text-align: center;">Page 175</p> |
| <p>1 police force." This appears to be a reference 2 to disciplinary regulations relating to the 3 police, although we have established that it 4 does not actually apply to the Commissioner 5 of Police, but it does look as though it is a 6 reference to a regulation concerning 7 disciplinary measures against police officers. 8 Were you aware that the Chief Minister 9 raised police disciplinary measures with Mr 10 Baglietto? 11 A. No. 12 Q. Do you know why the Chief Minister 13 would be discussing police disciplinary 14 measures with Mr Baglietto? 15 A. No. 16 Q. Did you ask Mr Baglietto to raise this 17 matter with the Chief Minister? 18 A. No. 19 Q. Then further on, in response to Mr 20 Baglietto's message, "Many thanks", the 21 Chief Minister then says, "Section 76, Police 22 Act. Power to make orders with respect to 23 property in possession of police. Where any 24 property has come into the possession of 25 police in connection with any criminal charge</p> <p style="text-align: center;">Page 174</p> | <p>1 discussing earlier, which is the final sentence 2 on that page. "There can be little surprise 3 that, as we believe is the case, the DPP 4 advised the Commissioner against the 5 making of these applications." Do you know 6 what the source of this information was? 7 A. No. 8 Q. If we go back - sorry to jump between 9 documents - if we go back to the transcript of 10 15 May, which is at B242. 11 A. At B? 12 Q. 242. 13 A. Yes, I've got it. 14 Q. B242. You can look at the screen if you 15 don't have it, but this is a transcript of the 15 16 May 2020 meeting, and towards the bottom, 17 24.02, Superintendent Richardson says, 18 "That clearly might be the case, but this is a 19 QC accusing the Commissioner of Police of 20 acting unlawfully because he's gone against 21 the advice of the DPP." "I picked that up", 22 says the DPP. "Can we go back to, on a 23 couple of instances, that is an assumption 24 that they're making", says Mr Llamas. 25 Superintendent Richardson, "How can a QC</p> <p style="text-align: center;">Page 176</p> |

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| <p>1 just throw that out, saying that the 2 Commissioner of Police is acting 3 unlawfully?" Mr Rocca, "It's almost worse 4 than that, it kind of possibly suggests that 5 I've spoken to Lewis Baglietto, which I 6 haven't." And the Commissioner of Police 7 says, "That's my question. My question is". 8 Superintendent Richardson, "Where has it 9 come from, if it wasn't Ed in court?" Mr 10 Llamas, "It must come from the conversation 11 with Ian and the Chief Minister." Do you 12 agree that the Attorney General is suggesting 13 here that Hassans found out the information 14 in that letter, the statement that the DPP had 15 advised against the warrant, from the 16 conversation between Mr McGrail and the 17 Chief Minister? 18 A. That's what they said there, yes. 19 Q. Do you consider it appropriate for the 20 Chief Minister or the Attorney General to 21 share legal advice, given by the DPP to the 22 RPG, with a suspect under investigation? 23 A. Well, that's not for me to - to opine, but as 24 I said, there'd be other interesting or difficult 25 things to explain in this investigation, which</p> <p style="text-align: center;">Page 177</p> | <p>1 Richardson or Wyan's comment to you? 2 A. No. 3 Q. Can I now take you to B1422, please. 4 These are the exchanges we were seeing 5 previously between Mr Baglietto and the 6 Chief Minister. 7 A. B1? 8 Q. 422. 9 A. Yes, that's at the end, isn't it? 10 Q. It may be. It may be for you, it is 11 definitely not on the end for me. 12 A. Sorry about that. 13 Q. That is okay, it is a... 14 A. Yes. Sorry, no, I don't think it's there. I'd 15 prefer to see the (inaudible). 16 Q. Just looking at the entries from 16 May at 17 23.20 onwards. Mr Baglietto writes to the 18 Chief Minister, "Bro, sorry to disturb but can 19 we speak some time tomorrow morning." 20 Chief Minister, "Sure, what time is good for 21 you?" Mr Baglietto, "Thanks, any time, and 22 what's the best way? WhatsApp call or 23 landline?" Chief Minister, "I don't mind, 24 ahora te llamaré" (?), I'll call you now. Mr 25 Baglietto, "Perfect, thanks. Mobile or", and</p> <p style="text-align: center;">Page 179</p> |
| <p>1 don't seen to have been highlighted. 2 Q. You referred earlier to the fact that you'd 3 been told that there was advice at the highest 4 level, and I think your evidence was that the 5 statement in that letter was a response to that 6 assertion. Is that your position? 7 A. In which letter -- 8 Q. Sorry -- 9 A. Just show me. 10 Q. In that letter - yes, sorry, I should take 11 you back to the letter. 12 A. The one of the... 13 Q. Of 15 May. 14 A. Yes. 15 Q. The Hassans letter. Did you see a draft of 16 this letter before it went out? 17 A. No. 18 Q. Were you aware at the time of the DPP's 19 advice, or the information as to the DPP's 20 advice? 21 A. No. I mean, I was aware of what they 22 told me - what Superintendent or - or Chief 23 Inspector Wyan told me in my office. 24 Q. But you do not know how it came to be, 25 that that letter contradicted Superintendent</p> <p style="text-align: center;">Page 178</p> | <p>1 provides a number. That is at 9.44. Then at 2 9.51 Mr Baglietto says, "12 noon, he says". 3 Then there is a missed call at that point. 4 Some more missed calls over the page. Then 5 the Chief Minister, "Ok, let me know when 6 you are on your way up." Mr Baglietto, 7 "Ok". Mr Picardo, "Como vas?" (?), how are 8 you going. Mr Baglietto, "Picking up now", 9 2.03. It appears from those messages that 10 you and Mr Baglietto and the Chief Minister 11 met on 17 May 2020, do you recall a meeting 12 between the three of you? 13 A. Yes. 14 Q. Do you know whether it was on 17 May, 15 or any other date? 16 A. It was a Sunday, if 17 May is a Sunday 17 then I remember that. 18 Q. We will just check that. I am told it was a 19 Sunday. Just reading on, there is a message 20 at 10.47 from the Chief Minister, "Media 21 omitted. That is page 13 of the HMIC report 22 published last week. We will come back to 23 that." (?) And then, Mr Baglietto responds 24 four minutes later, saying, "Shocking, but 25 sadly doesn't come as a surprise. Thanks for</p> <p style="text-align: center;">Page 180</p> |

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| <p>1 your time today bro, I think it reassured him 2 a lot." When he says "it reassured him a lot", 3 is that a reference to you? 4 A. Yes. 5 Q. What was discussed in that meeting? 6 A. The main point of that meeting was that 7 over the weekend I thought that it was 8 because of the position that I'd been placed in 9 I should resign as the chairman of 10 Community Care Limited, which everybody 11 knows is the main charity in Gibraltar, and I 12 wanted to see his view, because although it's 13 an independent charity it has some 14 connection with the Government, and I 15 wanted to resign and get it over and done 16 with, so I - I - I - that was my main purpose 17 for going. 18 Q. Why did you feel you must resign -- 19 A. Well -- 20 Q. -- as a result of the search warrant? 21 A. Because it's a very public charity, it deals 22 with hundreds of people, and I - I was 23 concerned that it could have an effect on the 24 charity, so I wanted to resign. 25 Q. The reference to you being "reassured",</p> <p style="text-align: center;">Page 181</p> | <p>1 I had been treated. 2 Q. Can I just --- looking at those messages can I 3 ask you to look at C6761 please. 4 A. Can you put it on the screen? 5 Q. Yes, yes, C6761. This is actually --- sorry, I do 6 not think we have --- C6761, that is it. This is the 7 image that is omitted from the WhatsApp 8 exchange between the Chief Minister and Mr 9 Baglietto, it is what the Chief Minister sends to 10 Mr Baglietto, and it is page --- I think he refers to 11 it as page 7 of the HMIC --- sorry, page 13 of the 12 HMIC report and he says, "Look at the bit I have 13 highlighted in red, boom." It is an entry that 14 refers to investigative support and the bottom 15 paragraph says, "We found officers using their 16 personal devices to examine offenders' phones. 17 This isn't good practice and doesn't meet best 18 evidence standards." Was that discussed during 19 your meeting? 20 A. I don't recall that. It is the first time I have 21 seen this. 22 Q. Do you know why the Chief Minister was 23 referring Mr Baglietto to that? 24 A. No. 25 Q. Did you think that it was appropriate for you</p> <p style="text-align: center;">Page 183</p> |
| <p>1 why do you think that Mr Baglietto said that 2 you were "reassured"? 3 A. Because he obviously said to me: you 4 shouldn't resign, I have confidence that - that 5 - that you have behaved properly, and 6 therefore I'm - I - I d-- I don't want to - you to 7 resign. 8 Q. Now, you say that the main reason for the 9 meeting was this Community Care 10 conversation. Was anything else discussed at 11 the meeting? 12 A. Yes, the Chief Minister was very vocal on 13 - on the powers of police and the way they 14 were exercised generally, not in relation to 15 this particular case, but he was concerned as 16 to search powers and the way they are - they 17 are - they're taken, or they - they're dealt 18 with. 19 Q. Did you voice your views about the way 20 that you had been treated? 21 A. Yes. 22 (14.57) 23 Q. And did the Chief Minister comment on how 24 you had been treated? 25 A. Yes, he said that he didn't agree with the way</p> <p style="text-align: center;">Page 182</p> | <p>1 and Mr Baglietto to go and meet the Chief 2 Minister and discuss the search warrant at the 3 time? 4 A. We didn't go to discuss the search warrant. 5 We went to discuss my wish to resign from 6 Gibraltar community care. 7 Q. But you did discuss the search warrant? 8 A. We discussed police powers rather than the 9 search warrant, yes. 10 Q. But you said earlier that you voiced your 11 concerns about it? 12 A. Yes, I will always voice my concern on that. 13 Q. And did you think it was appropriate to do 14 so? 15 A. Yes. 16 Q. If we go now to A1509, please, this is your 17 second witness statement. 18 A. Yes. 19 Q. Paragraph 3, just so that you can see the 20 previous page is the request for evidence from 21 the Inquiry, "Between 12 May and 9 June 2020 22 did you discuss whether by a meeting, telephone 23 call or other means Mr McGrail's position as 24 commissioner of police and/or the decision to 25 invite him to retire with any of the following</p> <p style="text-align: center;">Page 184</p> |

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| <p>1 persons, including the Chief Minister." Do you 2 stand by your evidence in that paragraph that 3 you did not discuss Mr McGrail's role as 4 commissioner of police with the Chief Minister 5 between 12 May and 9 June 2020 6 A. Entirely. 7 Q. Did you discuss the issue with the Attorney 8 General? 9 A. No. 10 Q. What about with Mr Baglietto? 11 A. No. 12 Q. Were you aware at any time before 9 June 13 2020 that the Chief Minister had lost confidence 14 in Mr McGrail and was implementing the section 15 34 procedure with the GPA? 16 A. No, I didn't get involved in that. 17 Q. You had no knowledge of the Chief Minister's 18 concerns with Mr McGrail? 19 A. No. 20 Q. Did you ever discuss --- moving forwards, did 21 you ever discuss the nolle prosequi in Operation 22 Delhi with the Chief Minister? 23 A. No. 24 Q. What about with the Attorney General? 25 A. Also not.</p> <p style="text-align: center;">Page 185</p> | <p>1 A. I think that there were two partners in 2 Hassans. I was only called in at a high level and I 3 feel it was perfectly proper and when I see what 4 goes on in representations generally it was very 5 proper. 6 Q. Do you know if anybody coordinated the 7 accounts from current or former RGP officers to 8 the Inquiry? 9 A. I am sorry, I didn't hear that. 10 Q. Do you know if anybody coordinated the 11 accounts being given by current or former RG{ 12 officers to the Inquiry adverse to Mr McGrail? 13 A. What do you mean by coordinate? 14 Q. Collected them and ---- 15 A. I don't think there was a very organised 16 structure but the person who took most of the 17 statements was Mr Bonfante. 18 Q. Can we go to A130, which is Mr McGrail's 19 third witness statement, paragraph 155, this is 20 something that you have already addressed in 21 your witness statement but I want to ---- 22 A. A130? 23 Q. Yes, A130. 24 A. I have had a look at it, yes. 25 Q. Paragraph 155, this is Mr McGrail's third</p> <p style="text-align: center;">Page 187</p> |
| <p>1 Q. And any other member of the government? 2 A. No. 3 Q. When did you first learn about Mr McGrail's 4 application for early retirement? 5 A. I don't remember when but when it went 6 public. 7 Q. From public sources? 8 A. Absolutely. 9 Q. Turning to another topic that is addressed in 10 your evidence, it is --- I do not think it is in 11 dispute to say that Hassans represents --- or at 12 least at one point represented the 19 members 13 of the GPF who gave statements to the Inquiry 14 making allegations against Mr McGrail. Were 15 you aware of that? 16 A. Yes. 17 Q. Who within Hassans represented the GPF? 18 A. Charles Bonfante and I was called in when 19 they asked for my advice. 20 Q. Was Mr Licudi also involved? 21 A. Yes. 22 Q. Given your own personal involvement in the 23 matters investigated by this Inquiry, do you think 24 it was appropriate for Hassans or you to act in 25 relation to the whistleblowers?</p> <p style="text-align: center;">Page 186</p> | <p>1 witness statement, and it says, "On 19 February 2 2021 I received information from the 3 Commissioner of Police, Richard Ullger, 4 concerning a suspected conspiracy against me. 5 This related to two police officers who were 6 subjected to investigation for corrupt improper 7 practices who were off work on sick leave. 8 Because of their extended leave of sickness, the 9 RGP were placing them on half pay in 10 accordance with general orders. Mr Ullger 11 informed me that these two officers had been 12 assured that they would not go into half pay and 13 that their futures would be safeguarded by way 14 of being provided alternative jobs in the 15 Environmental Protection Agency. However, in 16 exchange for being helped out, it was expected 17 from these officers that they had to come 18 forward with information, whether true or not, 19 about me to maliciously try and tarnish my 20 reputation before or during the Inquiry. Mr 21 Ullger explained that the person offering the two 22 officers these assurances was JL." I think that is 23 a reference to you. "Though it was also strongly 24 believed that there was involvement from 25 Number 6 Convent Place, given that the RGP had</p> <p style="text-align: center;">Page 188</p> |

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| <p>1 been requested not to put these officers on half 2 pay by an official at Number 6 Convent Place 3 who deals with industrial relations, namely, Mr 4 Michael Chrome." Did you give assurances to 5 two RGP officers that they would be provided 6 jobs with the Environmental Protection Agency? 7 A. Certainly not. 8 Q. Do you know Mr Chrome? 9 A. I know Mr Chrome. 10 Q. How do you know him? 11 A. I know him because he is a civil servant as I 12 know many people in Gibraltar. 13 Q. Are you aware that Mr Chrome is also 14 represented by Hassans in relation to the whistle 15 blowing issue? 16 A. Yes. 17 Q. Did you have any dealings with Mr Chrome in 18 relation to the letters of assurance that the Chief 19 Minister provided to individuals who were 20 willing to make statements against Mr McGrail? 21 A. I didn't see letters but --- and I didn't draft 22 letters if that is what you are asking for. 23 Q. But were you aware of the arrangements 24 that were arrived at in relation to letters of 25 assurance?</p> <p style="text-align: center;">Page 189</p> | <p>1 worked together in the Environmental 2 Protection Agency. The said ex-inspector had to 3 leave the RGP on quite bad terms following his 4 arrest for domestic violence and his subsequent 5 internment to rehabilitate for cocaine addiction. 6 As mentioned earlier, he was offered a post in 7 the Environmental Protection Agency. The 8 information suggested that the ex-inspector had 9 been offered a cash reward by JL in exchange for 10 information that could be used against me, Mr 11 McGrail. When this reward had not been 12 forthcoming and having committed to making a 13 statement of providing information against me, 14 he had complained but had been assured 15 promotion to executive officer or higher 16 executive officer within the Environmental 17 Protection Agency in lieu of the cash reward as 18 this was easier to mask under the 19 circumstances." Did you offer a cash reward to 20 an officer in exchange for information that can 21 be used against Mr McGrail? 22 A. Certainly not. 23 Q. Can I now show you a copy of one of the 24 letters of assurance? 25 A. Yes.</p> <p style="text-align: center;">Page 191</p> |
| <p>1 A. I think that brings in legal professional 2 privilege. 3 Q. In that you were acting for --- in that the GPF 4 ---- 5 A. We were acting for the officers but I am 6 interested to see that Mr Ullger can 7 communicate with Mr McGrail without --- with 8 impunity, that's fine, I see. 9 Q. Can we now turn to A131, please. I think it is 10 over the page. 11 A. A? 12 Q. 131, it is over the page on Mr McGrail's 13 statement. 14 A. What paragraph? 15 Q. Paragraph 159, sorry. This is a reference to 16 22 October 2021 when he says, "I received 17 disturbing information concerning an ex-police 18 inspector of the RGP. This information was not 19 dissimilar in nature to the one provided by CoP 20 Richard Ullger relating to the two officers who 21 were being asked to conspire against me. The 22 ex-inspector is in fact a close acquaintance of 23 these two other officers previously referred to. 24 They had previously worked in the same small 25 unit in the RGP and now, after leaving the RGP,</p> <p style="text-align: center;">Page 190</p> | <p>1 Q. Dated 9 February 2023. I think it is just being 2 brought up on the screen. 3 A. This was the one sent to me by the Inquiry. 4 Q. That is right, we sent it to you to give you the 5 opportunity to see it before giving evidence. 6 Have you seen any letters of this nature? 7 A. No. 8 MR SANTOS: I wonder whether that might be an 9 opportune moment for a break because the only 10 other questions that I have I would like to check 11 whether they encroach on privilege or not over 12 the break. 13 THE CHAIRMAN: Yes, that is very sensible. 14 MR SANTOS: Thank you. 15 (Short adjournment) 16 JAMES (HAIM) LEVY (Continued): 17 MR SANTOS: Mr Levy, we have considered the 18 matter and we are not going to take it any 19 further because the questions --- we cannot be 20 certain that the questions do not encroach on 21 privilege so I have no further questions for you. 22 Mr Gibbs KC does have some questions for you. 23 MR GIBBS: If that is all right, sir? 24 THE CHAIRMAN: Of course it is. 25 Questioned by MR GIBBS:</p> <p style="text-align: center;">Page 192</p> |

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| <p>1 Q. I just wondered whether you could give us a 2 little more help about one or two subjects, Mr 3 Levy and in particular can we just begin with the 4 question of your WhatsApp messages. The 5 Inquiry has been keen to recover everyone's 6 messages if they can but I do not think, am I 7 right, that you have been able to help with that 8 as yet? 9 A. I have even three days ago or four days ago I 10 had a meeting with both my IT specialists and 11 asked them whether there was any way that 12 they could recover any of my WhatsApp 13 messages and they said they couldn't. I said that 14 they could do it in --- I mean, I don't understand 15 that but I said can they do it in any way 16 whatsoever and both of them said, "No." I am 17 happy for them to provide a statement on what 18 they have done if they were able to. 19 Q. And was three days ago the first time that 20 you had thought to ask them about that? 21 A. Oh, no, I have spoken to them a number of 22 times on this. 23 Q. When did you first speak to them about that? 24 A. It's difficult to tell but I am just trying to see 25 whether I can give you an accurate answer but I</p> <p style="text-align: center;">Page 193</p> | <p>1 Q. Which copy was left with you? 2 A. Well, it was taken by the police and my IT 3 people, yes. 4 Q. And they would have been on the 5 replacement telephone which you started using 6 instead from 12 May? 7 A. Yes. 8 Q. Because you were usually using WhatsApp 9 for both your work and your home life? 10 A. I am doing it more now than many years ago, 11 yes. 12 Q. But at that time you were using both 13 WhatsApp for both your work and your home 14 life? 15 A. Yes. 16 Q. And you were able, because of the 17 arrangements that were made, to carry on the 18 work that you had been doing before 12 May on 19 the replacement telephone that you used after 20 12 May? 21 A. Yes. 22 Q. You could on the replacement telephone see 23 the messages that you had sent and received 24 before 12 May? 25 A. I mean, I don't think I checked every single</p> <p style="text-align: center;">Page 195</p> |
| <p>1 have spoken to them on a number of occasions. 2 Q. Presumably you spoke to them once it was 3 known that there was an Inquiry called for? 4 A. Certainly after the Inquiry was called and 5 before that, too. 6 Q. So even before the Inquiry was called for, you 7 were talking to your IT specialists in house about 8 the preservation of your messages? 9 A. Not the preservation but the finding of the 10 messages. 11 Q. Because you knew that those might be 12 significant? 13 A. No, because I already was --- before the 14 Inquiry I wanted to see whether they would be 15 of any help in the question of the investigation. 16 Q. Can you just help me with this, if we think 17 about whatever messages you may have 18 received and sent before 12 May, (inaudible) has 19 been on, am I right, your original telephone that 20 the police wanted to look at? Am I right? 21 A. Yes. 22 Q. They would have been on the copy of that 23 original telephone which was made on the date 24 of the attendance of a warrant? 25 A. Yes,</p> <p style="text-align: center;">Page 194</p> | <p>1 message sent. 2 Q. No, but --- 3 A. But that, with respect, is what I thought your 4 question was saying. 5 Q. Yes. Of those three places where those pre- 6 12 May 2020 messages could have been found, 7 of the three places the original telephone which 8 was kept safely by the police but not examined, 9 am I right? 10 A. I don't know if they examined it. 11 Q. Was returned to you? 12 A. Yes. Well, not to me, to the people in IT. 13 Q. And that was returned, am I right, in 14 November 2020? 15 A. If you say so. I don't remember the date. 16 Q. You must not take it from me, can we have 17 B3449 please. We can put it on the screen for 18 you and if we can go down the page, there is a 19 message from --- no, I think the wrong page has 20 been brought up. It is 3449. This is --- yes, you 21 can see the top of the page but if we go to the 22 bottom, 6 November 2020 at 1718, Mr 23 (Inaudible) who was at that stage acting for you? 24 A. Yes. 25 Q. He wrote to a number of police officers and</p> <p style="text-align: center;">Page 196</p> |

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| <p>1 others and he says in the second to last line on 2 that page, "I can confirm that I was handed Mr 3 Levy's property by Detective Constable Curragh," 4 and we can see what he is referring to if we 5 continue to the next page because that is an 6 answer to Mr Wyan's message on 28 October in 7 which he says in the final paragraph, "Finally, in 8 the circumstances it is our intention to return 9 the devices that were handed over to the police 10 voluntarily on 12 May 2020. These items which 11 remain unexamined may be collected from NMH 12 during normal office hours or, alternatively, I 13 could arrange for them to be dropped off to 14 you." So it looks like Mr Bonfanti got them back 15 to you on 6 November 2020. Do you agree? 16 A. Yes. 17 Q. And that was your original telephone. 18 A. Correct. 19 Q. Where is that? 20 A. I don't know. I carried on with the second 21 telephone. 22 Q. What did you do with the original one? 23 A. I didn't receive the original one. It must have 24 gone to somebody in my IT department. 25 Q. What instruction did you give about the</p> <p style="text-align: center;">Page 197</p> | <p>1 was the copy that had been made on 12 May. 2 A. Yes. 3 Q. Of the telephone and your IT department 4 kept a copy of that, did they? 5 A. No, but they copied the phone. 6 Q. Yes, and did they keep the copy? 7 A. No, I kept the copy. 8 Q. Did you keep the copy? 9 A. That was the phone I used. 10 Q. The copy was put onto your replacement 11 telephone? 12 A. I think they copied, so far as I know, it into my 13 replacement telephone. 14 Q. The replacement telephone which then you 15 kept and used seamlessly? 16 A. Yes. 17 Q. And still have now? 18 A. No. 19 Q. Where is that? 20 A. That phone collapsed many months ago, 21 about a year ago. 22 Q. About a year ago it collapsed? 23 A. Yes. 24 Q. How did it collapse? 25 A. I mean, if you want, I can get an affidavit</p> <p style="text-align: center;">Page 199</p> |
| <p>1 preservation of that? 2 A. None. 3 Q. Did it not seem to you that it might be 4 significant to keep hold of that? 5 A. Well, I don't understand the question, 6 frankly. It goes to the IT department. I think 7 they will preserve whatever they have to 8 preserve. 9 Q. So have they still go it? 10 A. They may do. I don't know. 11 Q. Have you not asked? 12 A. I have asked but they say that that phone 13 when it came, it wasn't usable any more. 14 Q. So even though it had been taken from you 15 and at the moment you handed over it was still 16 usable, was it? 17 A. Yes. 18 Q. The police seized it and they kept it carefully 19 and then they returned it without examining it, 20 when it came back you say that it was no longer 21 useable? 22 A. That's what they told me. I didn't see that 23 phone again. 24 Q. The second place where we might have been 25 able to recover your messages before 12 May</p> <p style="text-align: center;">Page 198</p> | <p>1 from my IT people to say exactly what happened 2 and give it to counsel for the inquiry. 3 Q. I will leave that obviously to Mr Santos and 4 the Chairman to make a decision about but 5 perhaps you can describe for us the 6 circumstances of its collapse? 7 A. It just didn't work anymore. I tried to use it 8 and it didn't work and they gave me a new one. 9 Q. When you got a new one, so that is the 10 replacement for the replacement, were you able 11 to reload your --- were you able to reload your 12 data from the collapsed telephone? 13 A. I didn't do it. 14 Q. But they did? 15 A. Yes. 16 Q. And so all of that data that was on the 17 replacement phone that is now on the 18 replacement phone for the replacement phone, 19 do you have that? 20 A. Yes, I have got it. 21 Q. Does that contain your messages from before 22 12 May 2020? 23 A. Some yes, some no. 24 Q. What appears to be the criterion by which 25 the telephone has preserved some messages but</p> <p style="text-align: center;">Page 200</p> |

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| <p>1 not preserved others?</p> <p>2 A. I am told by my IT department that that</p> <p>3 happens often when you have a transfer, but</p> <p>4 again I can ask them to give their reasons to the</p> <p>5 Inquiry.</p> <p>6 Q. Of the messages that have been preserved,</p> <p>7 does that include any of the messages to and</p> <p>8 from you and any of the people whom the</p> <p>9 Inquiry have been interested in?</p> <p>10 A. Mainly Mr Cornelio and Mr --- the Chief</p> <p>11 Minister and the Attorney General.</p> <p>12 Q. Yes, for instance?</p> <p>13 A. Whatever messages I have been asked for, if I</p> <p>14 have them I give them.</p> <p>15 Q. You have not been able, I think, to provide</p> <p>16 messages to and from many of those people that</p> <p>17 you have just described, have you?</p> <p>18 A. I can tell you that I have not hidden any</p> <p>19 messages or deleted any messages.</p> <p>20 Q. But some of the messages, the replacement</p> <p>21 for the replacement telephone did keep, they</p> <p>22 are from other people, are they?</p> <p>23 A. No, not all. For instance, some of my family</p> <p>24 messages didn't keep.</p> <p>25 Q. To your son?</p> <p style="text-align: center;">Page 201</p> | <p>1 A. I don't understand.</p> <p>2 Q. You carried on using the replacement</p> <p>3 telephone after 12 May, the one that has since</p> <p>4 "collapsed"?</p> <p>5 A. Yes.</p> <p>6 Q. And it would have been the device on which,</p> <p>7 am I right, you sent and received messages in</p> <p>8 the rest of May and in June 2020?</p> <p>9 A. The replacement?</p> <p>10 Q. Yes.</p> <p>11 A. The first replacement?</p> <p>12 Q. Yes.</p> <p>13 A. Not the second but the first?</p> <p>14 Q. No, the first.</p> <p>15 A. Yes.</p> <p>16 Q. Those messages, were they transferred on to</p> <p>17 your replacement, replacement telephone when</p> <p>18 the replacement telephone collapsed?</p> <p>19 A. According to my IT department, no, a lot of</p> <p>20 them were rubbed off.</p> <p>21 Q. So all of those as well?</p> <p>22 A. Not only those but many others were rubbed</p> <p>23 off.</p> <p>24 Q. Does Hassans have a Cloud facility for</p> <p>25 backing up messages that might be significant</p> <p style="text-align: center;">Page 203</p> |
| <p>1 A. No, to my wife or to other members of my</p> <p>2 family outside Gibraltar.</p> <p>3 Q. I meant the --- I am not asking how many</p> <p>4 sons you have but Mr Moshe Levy was one of</p> <p>5 your sons --- is one of your sons?</p> <p>6 A. He is one of my sons.</p> <p>7 Q. And the only one I think who had a meeting</p> <p>8 with anyone in whom there is interest from this</p> <p>9 Inquiry. Did the telephone, the replacement for</p> <p>10 the replacement telephone, did it preserve your</p> <p>11 messages with your son, Moshe?</p> <p>12 A. Yes.</p> <p>13 Q. It did?</p> <p>14 A. Yes.</p> <p>15 Q. So those at least would be available if anyone</p> <p>16 wanted to look at them?</p> <p>17 A. Yes.</p> <p>18 Q. Messages after 12 May, and, as you can tell,</p> <p>19 there has been interest in this Inquiry in</p> <p>20 particular about messages to and from various</p> <p>21 people during the period between 12 May and</p> <p>22 the time when the Chief Minister left office on 9</p> <p>23 June, so if we are thinking about that period</p> <p>24 after 12 May 2020, where would those messages</p> <p>25 be?</p> <p style="text-align: center;">Page 202</p> | <p>1 for the work done by its partners and</p> <p>2 employees?</p> <p>3 A. I believe so.</p> <p>4 Q. Notwithstanding that the original telephone</p> <p>5 and the replacement telephone and the</p> <p>6 replacement, replacement telephone may not</p> <p>7 be able to provide the information that the</p> <p>8 Inquiry is interested in, the Cloud should?</p> <p>9 A. I asked them and they said that it was not ---</p> <p>10 that they did not have it.</p> <p>11 Q. It was gone from the Cloud as well?</p> <p>12 A. No, I am not saying they are gone from the</p> <p>13 Cloud, they said that they couldn't provide it. I</p> <p>14 have offered to get my IT people to make a</p> <p>15 proper affidavit and explain the details to the</p> <p>16 Inquiry.</p> <p>17 Q. Thank you, that is all I ask about your</p> <p>18 telephones, Mr Levy. Going back, if we may, just</p> <p>19 in slight clarification of what Mr Santos has</p> <p>20 asked you, to the time when 36 North was first</p> <p>21 brought to you as a proposition, was it to you</p> <p>22 that it was brought or to somebody else at</p> <p>23 Hassans?</p> <p>24 A. To me.</p> <p>25 Q. And who brought it to you?</p> <p style="text-align: center;">Page 204</p> |

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| <p>1 A. John Perez and Tony Cornelio. 2 Q. And the principal proposition in 36 North, as 3 it was explained to you, was that that it is the 4 provision of NSCIS to the government of 5 Gibraltar? 6 A. No. It was --- there were two parts to it. One 7 was the possible provision of NSCIS to the 8 government of Gibraltar and the other one is the 9 provision of facilities to various governments in 10 different parts of the world. That was more 11 interesting than anything else. 12 Q. That was more interesting to you than the 13 NSCIS contract, was it? 14 A. Yes. 15 Q. The NSCIS contract a government contract? 16 A. Yes, that's what I understand, yes. 17 Q. And so the decision about who should 18 provide NSCIS was a decision for the government 19 to make? 20 A. Yes. 21 Q. But you understood that the government 22 would be instrumental in choosing the provider 23 of NSCIS? 24 A. Yes. 25 Q. Was the NSCIS contract, as you understood</p> <p style="text-align: center;">Page 205</p> | <p>1 to Hassans in deciding whether or not to back it 2 and take a stake in it? 3 A. The profitability and the concept, not only 4 the profitability. 5 Q. Did you take a stake in 36 North? 6 A. Yes. 7 (14.38) 8 Q. In return for a loan? 9 A. Yes. 10 Q. Of how much? 11 A. £450,000 odd. 12 Q. Was the facility rather more than that, 13 £476,000 was what was advanced? 14 A. Correct. 15 Q. The facility was ...? 16 A. Over a million. 17 Q. And 36 North needed Hassans money, is 18 this right, until it could secure the contract, 19 the NSCIS contract? 20 A. No, it needed Hassans's money until it 21 was profitable. 22 Q. And once it had the NSCIS contract it 23 would be profitable? 24 A. Not necessarily because the salaries of 25 the two directors was quite high, so it's not as</p> <p style="text-align: center;">Page 207</p> |
| <p>1 it, a valuable one? 2 A. As far as I am concerned there was no NSCIS 3 contract. That's what I was informed by Mr 4 Perez and Mr Cornelio. 5 Q. But when it was brought to you as a 6 proposition, it was hoped that 36 North would 7 be adopted as the provider of NSCIS? 8 A. Well, all it would be --- there would be a 9 tender for the provision, that's the way it should 10 have been from the beginning and something 11 which they would have tendered for later. 12 Q. But it was not their intention to enter the 13 tendering process to lose, was it? 14 A. Well, you enter a tendering process either to 15 win or to lose. 16 Q. You do not enter a tendering process as a 17 business in the hope that you might win the 18 tender? 19 A. Of course. 20 Q. Of course, and were you provided then with 21 financial projections as to what the value of that 22 contract might be to 36 North? 23 A. Yes. 24 Q. Because the profitability of 36 North was 25 plainly, unless you tell me differently, significant</p> <p style="text-align: center;">Page 206</p> | <p>1 simple as that. 2 Q. But once it had the NSCIS contract it 3 would be viable, wouldn't it? 4 A. Not necessarily. It depended, for me, I 5 don't look at the detail, but for me it 6 depended on its international business which 7 was the -- 8 THE CHAIRMAN: No-one would take the 9 contract internationally unless it was being 10 run profitable in Gibraltar? 11 A. Sir, I think that there were two aspects. 12 They had conceived a programme for other 13 countries which was not yet used in 14 Gibraltar. 15 THE CHAIRMAN: But unless you could 16 demonstrate it was working well in Gibraltar, 17 it wouldn't be very attractive to anybody else, 18 would it? 19 A. It was a different programme, so we don't 20 -- it was never tested. 21 MR GIBBS: What would happen to 22 Hassans's money, the money that it had 23 advanced to 36 North, if 36 North never 24 secured the NSCIS contract? 25 A. Well, it's a risk that was taken.</p> <p style="text-align: center;">Page 208</p> |

52 (Pages 205 to 208)

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| <p>1 Q. And was it you who assessed the risk? 2 A. I assessed it with another two partners, 3 yes. 4 Q. I am just hesitating about whether it's 5 necessary to ask you who those other two 6 partners were. Have they -- I do not 7 unnecessarily want to name anyone -- been 8 named so far in your evidence today? 9 A. No. 10 Q. So they are not Mr Baglietto and they are 11 not Mr Picardo? 12 A. No. 13 Q. And they are not Mr Picardo's wife or ... 14 A. No. 15 Q. No. 16 A. Mr Picardo's wife was not an equity 17 partner at the time. 18 Q. Were they two of the partners who did 19 later, by virtue of Hassans taking its stake, 20 secure for themselves a smallholding, a small 21 shareholding in 36 North? 22 A. All the partners of Hassans secured 23 themselves a shareholding. This was sent to 24 the police as soon as they asked us very early 25 on.</p> <p style="text-align: center;">Page 209</p> | <p>1 Q. Did they know that they were 2 shareholders? 3 A. Some did, some didn't. 4 Q. Did Mr Baglietto know? 5 A. I wouldn't know. 6 Q. Did Mr Picardo know? 7 A. I'm sure he did, yes. 8 Q. He did? Did you tell him? 9 A. Whether I told him or one of the other 10 two partners, I don't recall. 11 Q. But you can be sure he knew? 12 A. I am sure he knew, yes. 13 Q. Mr Mena, was he also a partner? 14 A. He was not an active partner at the time. 15 Q. No. Tell me whether he was one of the 16 partners -- 17 A. No. 18 Q. He wasn't. But did he know that he had a 19 beneficial ownership in 36 North? 20 A. All the partners knew. 21 Q. Did any of the partners express dissent 22 from the proposition that you should take this 23 stake? 24 A. I don't recall. 25 Q. Was there a meeting, a partner's meeting</p> <p style="text-align: center;">Page 211</p> |
| <p>1 Q. If 36 North was not profitable and ceased 2 trading, what would be the implications for 3 Hassans? 4 A. Well, it would have lost something on a 5 business venture. 6 Q. You've lost your money? 7 A. Yes. 8 Q. And were there other obligations that 9 Hassans in those circumstances would have 10 had to meet? 11 A. Yes, we agreed to a consultancy contract 12 with both Mr Perez and Mr Cornelio. 13 Q. In what sum? 14 A. £300,000 each. 15 Q. For what period? 16 A. For three years. But the consultancy 17 contract had to be entered into and agreed 18 and they would have had obviously 19 performance related issues and warranties. 20 Q. Apart from the two partners whom I 21 haven't asked you to name, and yourself. 22 Were other partners at Hassans consulted on 23 the decision to enter into the business 24 proposition with 36 North? 25 A. No.</p> <p style="text-align: center;">Page 210</p> | <p>1 about it? 2 A. No. 3 Q. Did they take the proposal on trust from 4 you and from the other two who were 5 involved in agreeing? 6 A. Yes. We now have a different system. 7 We have board meetings and things have 8 become more official. 9 Q. Because of what's happened here? 10 A. Not at all, because we became a limited 11 company. 12 Q. What arrangements were in place to 13 ensure that there could be no conflict of 14 interests for Hassans's partners who were in 15 Government? 16 A. I assume they would themselves seek 17 whatever consents they needed. 18 THE CHAIRMAN: Sorry, "by themselves", 19 do you mean those in Government? 20 A. Those in Government, yes, Sir. 21 THE CHAIRMAN: That is what you mean? 22 A. Yes, Sir. 23 MR GIBBS: Did Hassans not -- because 24 quite a few partners of Hassans over the 25 years have been, as I understands it, in</p> <p style="text-align: center;">Page 212</p> |

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| <p>1 Government, is that right?</p> <p>2 A. Yes.</p> <p>3 Q. Did Hassans not have a protocol, an</p> <p>4 understanding about how to deal with any</p> <p>5 awkwardness?</p> <p>6 A. That was left to the person in politics to</p> <p>7 clear with the Chief Secretary who I assume</p> <p>8 is the person you have to clear it with.</p> <p>9 Q. The Chief Secretary was himself a</p> <p>10 partner in Hassans?</p> <p>11 A. Not at all.</p> <p>12 Q. Before this contract, had Hassans ever</p> <p>13 been in the position where it had a financial</p> <p>14 interest in a contract awarded by the</p> <p>15 Government and the Government was partly</p> <p>16 populated by partners in Hassans. Has that</p> <p>17 ever happened before?</p> <p>18 A. No.</p> <p>19 Q. Never happened before?</p> <p>20 A. No.</p> <p>21 Q. So this was a new potential problem?</p> <p>22 A. Yes.</p> <p>23 Q. Yes. Did you see it as a problem?</p> <p>24 A. Well, not if the person who had to declare</p> <p>25 his interest declared it and got whatever</p> <p style="text-align: center;">Page 213</p> | <p>1 Q. And the beneficial owner, to a small</p> <p>2 extent, but a beneficial owner in 36 North?</p> <p>3 A. Yes.</p> <p>4 Q. Whose business plan depended upon, I</p> <p>5 suggest, obtaining this contract from the</p> <p>6 Government?</p> <p>7 A. Correct.</p> <p>8 Q. So, the Chief Minister, was he not both</p> <p>9 beneficiary, potentially, and giver of the</p> <p>10 benefit?</p> <p>11 A. Yes, and the result is that they gave it to</p> <p>12 somebody else.</p> <p>13 Q. And was that always his intention?</p> <p>14 A. It's a matter for him. I don't know.</p> <p>15 Q. Did you understand it always to be his</p> <p>16 intention?</p> <p>17 A. No, but fairly early on he decided that it</p> <p>18 was not going to go to 36 North.</p> <p>19 Q. When you had these conversations with</p> <p>20 him about it, in which he passed on the fact</p> <p>21 that you were, I don't know, a person of</p> <p>22 interest or whatever the phrase is --</p> <p>23 A. Oh no, well before that.</p> <p>24 Q. Before that, yes. And did he at that stage</p> <p>25 say to you, "I'm not going to give this</p> <p style="text-align: center;">Page 215</p> |
| <p>1 consent or whatever process he went through</p> <p>2 and it was successful.</p> <p>3 Q. But did you say to ... for instance, at the</p> <p>4 time of this did you say to the partners who</p> <p>5 were in Government, "You're going to have</p> <p>6 to obviously get consents, make declarations</p> <p>7 to the right people, to show your personal</p> <p>8 interest in this", did you say that to them?</p> <p>9 A. No.</p> <p>10 THE CHAIRMAN: You were very aware of</p> <p>11 red lines, you mentioned that this morning.</p> <p>12 A. Yes, Sir.</p> <p>13 THE CHAIRMAN: Did it cross your mind</p> <p>14 that it would be quite a good idea to define</p> <p>15 them in relation to this contract?</p> <p>16 A. But I assumed, Sir, if the contract was</p> <p>17 obtained. But fairly early on we knew that</p> <p>18 the contract was not to be given to 36 North.</p> <p>19 Fairly, fairly early on.</p> <p>20 MR GIBBS: The contract was in the gift of</p> <p>21 the Government?</p> <p>22 A. Correct.</p> <p>23 Q. The Chief Minister was a partner of</p> <p>24 Hassans?</p> <p>25 A. Yes.</p> <p style="text-align: center;">Page 214</p> | <p>1 contract to 36 North"?</p> <p>2 A. No. Or yes, he just didn't say anything.</p> <p>3 He decided and he gave it to the other</p> <p>4 company. It's a matter for him.</p> <p>5 Q. Did you detect -- did you yourself feel</p> <p>6 any awkwardness in this situation?</p> <p>7 A. Well, only if there was something wrong.</p> <p>8 I would have expected a tender for the whole</p> <p>9 thing and then there wouldn't be any</p> <p>10 awkwardness because a tender is not decided</p> <p>11 by the Chief Minister; the tender is decided</p> <p>12 by a tender board. There are processes in</p> <p>13 Gibraltar which are here and they work and</p> <p>14 they are gone through.</p> <p>15 Q. But in the absence of a tender, how was</p> <p>16 it going to be decided?</p> <p>17 A. Well, there should have been a tender.</p> <p>18 Q. Yes, but in the absence of a tender, how</p> <p>19 was it going to be decided?</p> <p>20 A. I don't know how it was going to be</p> <p>21 decided, but it was decided by the Chief</p> <p>22 Minister and it was given to the other party.</p> <p>23 Q. So it was going to be decided by the</p> <p>24 Chief Minister?</p> <p>25 A. Unless they decided to go for a tender.</p> <p style="text-align: center;">Page 216</p> |

54 (Pages 213 to 216)

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| <p>1 Q. And he then, is this right, he would have 2 to be, in making that decision, and in 3 thinking about that decision, absolutely 4 scrupulous not to allow his own potential 5 advantage and your potential advantage and 6 Hassans's potential advantage and all of this 7 co-partners' potential advantage, to influence 8 him in any way? 9 A. It did, to give it to the other side. 10 Q. And to be transparent about that? 11 A. I don't understand the question. 12 Q. Would he, did you think, need to be 13 transparent about that? 14 A. Well, what happened happened and that 15 is he gave it to the other side. 16 Q. Would he need, in your opinion, to be 17 transparent about that? 18 A. About giving it to the other side? 19 Q. Is that what you think I am asking, Mr 20 Levy? 21 A. That is what I think you're asking. 22 Q. Yes. 23 A. So perhaps you can put it in a way that I 24 can understand it better. 25 Q. Yes. Yes, of course. What I am asking is</p> <p style="text-align: center;">Page 217</p> | <p>1 you heard, was to try and see if both of them 2 could work together and if they could 3 without us, would be to step aside and I made 4 that clear to Mr Perez and Mr Cornelio. That 5 was my aim once I saw that friction was 6 starting to occur. 7 Q. As a shareholder of about ten-and-a-half 8 per cent in 36 North, did you think that the 9 problems that Blands were experiencing in 10 providing the service was good or bad for the 11 shareholders? 12 A. Frankly, I think it was bad for Gibraltar. 13 Q. And the answer to my question? 14 A. I thought it could be a possibility for 36 15 North to get the contract, yes, but it didn't 16 exercise my mind hugely. 17 Q. Were you indifferent to whether 36 North 18 got the contract? 19 A. I wasn't indifferent, but when I saw the 20 friction I felt it was best to step aside and let 21 the two parties work together. 22 Q. The problems that Blands were 23 experiencing, did you speak to Mr Picardo 24 about them? 25 A. No.</p> <p style="text-align: center;">Page 219</p> |
| <p>1 whether he would have to be, in your view, 2 transparent about the potential conflict of 3 interest. 4 A. I am sure he would be transparent, but it 5 didn't arise. 6 Q. Was the contract unlikely to be removed 7 from Blands if Blands were providing a 8 satisfactory service? 9 A. I wouldn't know that. 10 Q. Did you think it was more or less likely 11 that the contract would be removed from 12 Blands if Blands were providing a 13 satisfactory service? 14 A. It's not something I thought of. 15 Q. It never occurred to you? 16 A. No. 17 Q. Did you hear that Blands were 18 experiencing any difficulties in providing the 19 service? 20 A. Sir, should I answer that question? 21 THE CHAIRMAN: Yes. 22 A. Yes, I did. 23 MR GIBBS: Was that good or bad for 36 24 North? 25 A. My attempt, as I said before and I'm sure</p> <p style="text-align: center;">Page 218</p> | <p>1 Q. Did he seem to be aware of them? 2 A. I don't know if Mr Perez or Mr Cornelio 3 told him. 4 Q. Did Mr Picardo ever express to you any 5 worry about the difficulties? 6 A. No. 7 Q. Was he in contact with the other 8 shareholders? 9 A. For a time, yes, but I wouldn't know. 10 Q. You don't know? 11 A. I know he was but I don't know how 12 often and when. 13 Q. Did you do anything to facilitate that 14 contact? 15 A. They didn't need me. They had direct 16 access. 17 Q. But whether they needed you or not, did 18 you do anything to facilitate the contact? 19 A. I don't recall if I ever put them together or 20 sent a message. I may have. 21 Q. I won't put it up on screen again, but do 22 you remember Mr Santos showed you some 23 messages -- 24 A. Yes. 25 Q. -- perhaps about that.</p> <p style="text-align: center;">Page 220</p> |

55 (Pages 217 to 220)

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| <p>1 A. But some of the messages sent to me</p> <p>2 were not replied to.</p> <p>3 Q. I am not asking you about your state of</p> <p>4 knowledge in what was going on. I want to</p> <p>5 ask you no question about whether you were</p> <p>6 involved in a way that might have been</p> <p>7 suspicious or criminal in what happened, all</p> <p>8 right, but did you tell Mr Picardo whatever</p> <p>9 you knew about what was causing the</p> <p>10 problems?</p> <p>11 A. In the system?</p> <p>12 Q. Yes.</p> <p>13 A. No.</p> <p>14 Q. When Mr Perez was arrested and</p> <p>15 interviewed, did you attend the police station</p> <p>16 to represent him?</p> <p>17 A. No.</p> <p>18 Q. Why not?</p> <p>19 A. Well, I don't do that type of work.</p> <p>20 Q. If you had felt able to do so, would you</p> <p>21 have been happy to attend for him?</p> <p>22 A. No, I would have got a partner who does</p> <p>23 that type of work.</p> <p>24 Q. Why wouldn't you have attended?</p> <p>25 A. Because I said it's not the type of work I</p> <p style="text-align: center;">Page 221</p> | <p>1 A. The first interview, yes.</p> <p>2 Q. Was he a shareholder in 36 North?</p> <p>3 A. I don't recall.</p> <p>4 Q. To the tune of about 1 per cent I mean?</p> <p>5 A. I don't recall.</p> <p>6 Q. In the second instance, so after the first</p> <p>7 attendance, did somebody from a different</p> <p>8 firm represent Mr Perez?</p> <p>9 A. Yes.</p> <p>10 Q. And why was that?</p> <p>11 A. Well, we felt it was good to have another</p> <p>12 expert from another firm do it.</p> <p>13 Q. Any other reason why you went to</p> <p>14 another -- why he went to another firm?</p> <p>15 A. I don't recall.</p> <p>16 Q. Was it a relevant consideration in his</p> <p>17 representation that he not be represented by</p> <p>18 someone from Hassans who were</p> <p>19 shareholders in the same venture in respect of</p> <p>20 which he was under investigation?</p> <p>21 A. A consideration by whom? By him, by</p> <p>22 us or by the new firm?</p> <p>23 Q. May we start with you.</p> <p>24 A. Yes.</p> <p>25 Q. Just if you could spell it out, why was it</p> <p style="text-align: center;">Page 223</p> |
| <p>1 do.</p> <p>2 Q. Any other reason?</p> <p>3 A. I mean, I can't tell you something I didn't</p> <p>4 think of.</p> <p>5 Q. No. Well, I just wonder whether Mr</p> <p>6 Perez obviously a shareholder in 36 North,</p> <p>7 now arrested and police wanting to interview</p> <p>8 him under caution, and you were also a</p> <p>9 shareholder effectively in 36 North, would</p> <p>10 that have been relevant to decide to your</p> <p>11 decision whether to represent him?</p> <p>12 A. You mean a conflict of interest?</p> <p>13 Q. Call it what -- you choose the word.</p> <p>14 A. Well, really, do I have to answer a</p> <p>15 hypothetical question?</p> <p>16 THE CHAIRMAN: He has given a reason</p> <p>17 why it would never have crossed his mind to</p> <p>18 represent him.</p> <p>19 MR GIBBS: Yes. So you've never had to</p> <p>20 ask yourself the question?</p> <p>21 A. That's right.</p> <p>22 Q. And I don't want his name, unless you</p> <p>23 think it is relevant, I see no need to mention</p> <p>24 the name, but did another partner in Hassans</p> <p>25 attend to represent him?</p> <p style="text-align: center;">Page 222</p> | <p>1 relevant that when Mr Perez, a shareholder in</p> <p>2 36 North, was being interviewed about what</p> <p>3 had happened with 36 North, that he not be</p> <p>4 represented by another shareholder in 36</p> <p>5 North?</p> <p>6 A. But it wouldn't necessarily be another</p> <p>7 shareholder. There would have been people</p> <p>8 who were not partners who did that sort of</p> <p>9 work.</p> <p>10 Q. And even they, you thought, it would be</p> <p>11 better --</p> <p>12 A. They thought it would be better too.</p> <p>13 Q. Yes, because of Hassans's beneficial</p> <p>14 interest in the venture under discussion. Is</p> <p>15 that right?</p> <p>16 A. They chose that.</p> <p>17 Q. And so somebody else represented Mr</p> <p>18 Perez, didn't they? The warrant on the 12th.</p> <p>19 Were you expecting a search warrant?</p> <p>20 A. No.</p> <p>21 Q. Did you expect that the police might want</p> <p>22 to interview you under caution?</p> <p>23 A. Up to that time, no.</p> <p>24 Q. And you had anything to hide?</p> <p>25 A. No.</p> <p style="text-align: center;">Page 224</p> |

56 (Pages 221 to 224)

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| <p>1 Q. You agreed to come down to the office?</p> <p>2 A. Yes. I thought they were wrong in going</p> <p>3 for a warrant and they should have gone for a</p> <p>4 production order.</p> <p>5 Q. And on the way to the office, have I</p> <p>6 understood you right, you rang some people,</p> <p>7 including the Chief Minister?</p> <p>8 A. Yes, friends, yes, I did, and family.</p> <p>9 Q. I don't ask about your friends and family,</p> <p>10 but what did you say to the Chief Minister?</p> <p>11 A. Nothing, that the police wanted to speak</p> <p>12 to me and they were in the office.</p> <p>13 Q. And did you say it as calmly as that?</p> <p>14 A. I don't recall whether I said it calmly. I</p> <p>15 mean, I was very distraught, but I know how</p> <p>16 to get hold of myself.</p> <p>17 Q. What did you want him to do about it?</p> <p>18 A. Nothing.</p> <p>19 Q. So why did you ring him?</p> <p>20 A. I rang some friends.</p> <p>21 Q. You rang him as a friend?</p> <p>22 A. Yes.</p> <p>23 Q. Wanting him to do nothing at all about it?</p> <p>24 A. He couldn't do anything about it. It was</p> <p>25 clear from the unfairness of the way this was</p> <p style="text-align: center;">Page 225</p> | <p>1 Q. And did you think, just to return to my</p> <p>2 question, I wasn't quite sure I heard all of</p> <p>3 your answer, did you think that he couldn't</p> <p>4 do anything about it because it would have</p> <p>5 been quite wrong for him to do anything</p> <p>6 about it?</p> <p>7 A. And because he couldn't do anything</p> <p>8 about it, but this didn't cross my mind. I</p> <p>9 wasn't telling him to do anything, or ringing</p> <p>10 for him to do anything.</p> <p>11 Q. The question of opening places of</p> <p>12 worship that you mentioned --</p> <p>13 A. Yes.</p> <p>14 Q. -- is that something you discussed on the</p> <p>15 same call?</p> <p>16 A. No, no.</p> <p>17 Q. So you rang on the way down to the</p> <p>18 office, specifically about the fact that the</p> <p>19 police were there with a search warrant?</p> <p>20 A. Correct.</p> <p>21 Q. Did you ring him as a fellow partner in</p> <p>22 Hassans or as a fellow shareholder in 36</p> <p>23 North or as the Chief Minister of Gibraltar or</p> <p>24 as a friend?</p> <p>25 A. A friend. I rang a number of friends.</p> <p style="text-align: center;">Page 227</p> |
| <p>1 investigated and the involvement of the</p> <p>2 relevant party on the other side and the</p> <p>3 closeness of that team that nothing could be</p> <p>4 done.</p> <p>5 Q. You mean that he couldn't do anything</p> <p>6 about it because it would have been quite</p> <p>7 wrong for him to have done anything about</p> <p>8 it?</p> <p>9 A. Correct -- no, incorrect, and because I</p> <p>10 think there was an unfairness on the other</p> <p>11 side and in the closeness of people visiting</p> <p>12 other people's offices and exchanging</p> <p>13 information and giving advance information</p> <p>14 of things that were happening was showing</p> <p>15 how unfair that was.</p> <p>16 Q. Can I just return to you ringing the Chief</p> <p>17 Minister. So you rang the Chief Minister and</p> <p>18 you said there was nothing he could do about</p> <p>19 it.</p> <p>20 A. I didn't ask him to do anything about it.</p> <p>21 Q. What did you ring him about?</p> <p>22 A. Just to say what was happening. I didn't</p> <p>23 ask him to do anything about it at all. I am</p> <p>24 quite aware that he couldn't have done</p> <p>25 anything about it if he wanted.</p> <p style="text-align: center;">Page 226</p> | <p>1 Q. So, if he did do anything about it, it was</p> <p>2 not because you wanted that to happen?</p> <p>3 A. I didn't expect anything to happen.</p> <p>4 Q. When you came down to the office, did</p> <p>5 you find that the police had attended really as</p> <p>6 discreetly as any warrant can ever have</p> <p>7 involved?</p> <p>8 A. Yes, I recorded that.</p> <p>9 Q. And you have recorded that the personal</p> <p>10 courtesy of the officers --</p> <p>11 A. Yes, not only once.</p> <p>12 Q. Yes. Did you expect to be treated</p> <p>13 differently from any other suspect if suspect</p> <p>14 was what they had you down as?</p> <p>15 A. I did expect to have a production order</p> <p>16 instead of a warrant, as I have said, because</p> <p>17 that is usual when you're dealing with a</p> <p>18 member of the Bar.</p> <p>19 Q. And if the police had served a production</p> <p>20 order on you, asking for the same things, for</p> <p>21 your devices and so on, would you have</p> <p>22 complied with it?</p> <p>23 A. Yes.</p> <p>24 Q. And handed over your devices for the</p> <p>25 purpose sought?</p> <p style="text-align: center;">Page 228</p> |

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| <p>1 A. Yes.</p> <p>2 Q. With permission for them to be</p> <p>3 examined?</p> <p>4 A. Subject to blue bag provisions, yes.</p> <p>5 Q. Yes. Because you would have had</p> <p>6 legally privileged material --</p> <p>7 A. Absolutely of other people.</p> <p>8 Q. -- on your devices to do with other cases.</p> <p>9 A. Correct.</p> <p>10 Q. And if you would have done it under a</p> <p>11 production order and handed the material</p> <p>12 over with consent, why did you not do so in</p> <p>13 this case?</p> <p>14 A. Very simple, because I thought that they</p> <p>15 had come on the wrong basis and I wanted to</p> <p>16 get advice.</p> <p>17 Q. And having got advice did you not,</p> <p>18 because you were perfectly happy for them to</p> <p>19 see whatever it was they needed to see, did</p> <p>20 you not allow them to see it anyway?</p> <p>21 A. There had to be blue bagging provisions.</p> <p>22 Q. Yes, and the blue bagging provisions</p> <p>23 depended upon you choosing, because they</p> <p>24 offered you the choice, didn't they, an</p> <p>25 independent lawyer to examine the totality of</p> <p style="text-align: center;">Page 229</p> | <p>1 think we were still arguing the point. But we</p> <p>2 didn't withdraw the consent.</p> <p>3 Q. You're not aware of consent being</p> <p>4 withdrawn?</p> <p>5 A. Correct.</p> <p>6 Q. Why did you think the police weren't</p> <p>7 looking at your telephone?</p> <p>8 (15.08)</p> <p>9 A. I mean, I think it takes time in my</p> <p>10 experience. It takes time to get an independent</p> <p>11 lawyer in England and to get him to come and</p> <p>12 look at the material.</p> <p>13 Q. So were your lawyers, Mr Baglietto: was</p> <p>14 he in contact with the police on the subject of</p> <p>15 instructing an independent lawyer?</p> <p>16 A. No, but I know that we spent time the</p> <p>17 following day trying to identify independent</p> <p>18 lawyers.</p> <p>19 Q. At the time that the telephone was handed</p> <p>20 over, had you deleted any messages between</p> <p>21 yourself and Mr Perez?</p> <p>22 A. No.</p> <p>23 Q. Whatever they were, they were all still</p> <p>24 there.</p> <p>25 A. Yes, but you've got them from Mr Perez</p> <p style="text-align: center;">Page 231</p> |
| <p>1 material to exclude the legally privileged</p> <p>2 material?</p> <p>3 A. Yes.</p> <p>4 Q. So, did you set about choosing a lawyer</p> <p>5 so that they could instruct the lawyer --</p> <p>6 A. No, no.</p> <p>7 Q. No?</p> <p>8 A. No. It all happened in the afternoon, in</p> <p>9 that same afternoon.</p> <p>10 Q. Yes. And then they took away the</p> <p>11 material and did you at that stage choose an</p> <p>12 independent lawyer so that the privileged</p> <p>13 process could be gone through?</p> <p>14 A. We went through a number of choices of</p> <p>15 lawyers --</p> <p>16 Q. Yes.</p> <p>17 A. -- and we -- and then events caught up</p> <p>18 with what was going on.</p> <p>19 Q. But the events that caught up -- the point</p> <p>20 of the question, Mr Levy, is this. If you</p> <p>21 would have complied under a production</p> <p>22 order, why, once you had voluntarily handed</p> <p>23 over the devices with permission to examine,</p> <p>24 did you withdraw that consent the next day?</p> <p>25 A. I don't think we withdrew the consent. I</p> <p style="text-align: center;">Page 230</p> | <p>1 anyhow.</p> <p>2 Q. And you were content for the police to</p> <p>3 see them.</p> <p>4 A. I had no power to stop it.</p> <p>5 Q. And your messages to and from Mr</p> <p>6 Cornelio: none of them have been deleted.</p> <p>7 A. I didn't delete any.</p> <p>8 Q. Well, no one else could have, could they?</p> <p>9 A. Mr Cornelio, I'm sure he didn't.</p> <p>10 Q. But on your device.</p> <p>11 A. I don't understand.</p> <p>12 Q. Could anyone else have deleted them</p> <p>13 from your device?</p> <p>14 A. I doubt it. I didn't have the phone myself</p> <p>15 for whatever time it was, an hour, two hours,</p> <p>16 which was in the hands of my IT man with a</p> <p>17 police expert.</p> <p>18 Q. Before the police arrived, before you</p> <p>19 knew that --</p> <p>20 A. I didn't delete any messages.</p> <p>21 Q. No, quite. Would you have been content</p> <p>22 for the police to see all of those messages</p> <p>23 between yourself and Mr Cornelio and Mr</p> <p>24 Perez and --</p> <p>25 A. But I assume they have seen them,</p> <p style="text-align: center;">Page 232</p> |

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| <p>1 because they have the other side.</p> <p>2 Q. You assume that --</p> <p>3 A. I assume now, not then.</p> <p>4 Q. What did you then think?</p> <p>5 A. I didn't. It didn't cross my mind. I wasn't</p> <p>6 dealing with that.</p> <p>7 Q. It did not cross your mind.</p> <p>8 A. No, it's not something that was exercising</p> <p>9 my mind at the time.</p> <p>10 Q. Did you know that Mr Sanchez had</p> <p>11 deleted some of his messages, perhaps all of</p> <p>12 his messages, before he touched down at</p> <p>13 Gibraltar when he was called back to --</p> <p>14 A. No, I just read this now.</p> <p>15 Q. You did not know that.</p> <p>16 A. No.</p> <p>17 Q. When they had been arrested, the other</p> <p>18 Delhi defendants, did you, as it were, make a</p> <p>19 mental note to yourself that these people with</p> <p>20 whom you were in business having been</p> <p>21 arrested, you should take care to preserve the</p> <p>22 messages between yourself and them?</p> <p>23 A. There was nothing - not something that</p> <p>24 at all I was considering at the time, or I don't</p> <p>25 think I was. But it's very interesting. You</p> <p style="text-align: center;">Page 233</p> | <p>1 Q. Is it anything like the relevance for</p> <p>2 whether you or another partner of Hassans</p> <p>3 could act for Mr Perez the year before?</p> <p>4 A. I see it totally different.</p> <p>5 Q. Totally different. In what way?</p> <p>6 A. In that we are partners and we do work</p> <p>7 for each other.</p> <p>8 Q. What do you remember, if anything, Mr</p> <p>9 Picardo saying to you before 12 May about</p> <p>10 police interest in you?</p> <p>11 A. I said what I remembered, that once the</p> <p>12 Chairman asked me and I clarified what I</p> <p>13 remembered.</p> <p>14 Q. Did you ask him where he had got the</p> <p>15 information from?</p> <p>16 A. No. But Gibraltar is fairly liberal</p> <p>17 information. You can get things either from,</p> <p>18 you know, direct from the police to people</p> <p>19 who are not involved in the investigation,</p> <p>20 and things like that.</p> <p>21 Q. Did you think he had it from a private</p> <p>22 source or from a public source?</p> <p>23 A. I didn't, I didn't think.</p> <p>24 Q. Were you concerned lest he have it from</p> <p>25 a private source?</p> <p style="text-align: center;">Page 235</p> |
| <p>1 see, the narrative in all this is that the</p> <p>2 investigation was a proper investigation. I</p> <p>3 believe and I continue to believe that that</p> <p>4 investigation was fundamentally flawed.</p> <p>5 Q. Could you have asked a lawyer who was</p> <p>6 not a shareholder in 36 North to represent</p> <p>7 you?</p> <p>8 A. Yes.</p> <p>9 Q. And why did you not?</p> <p>10 A. I took advice from a lawyer who was not</p> <p>11 a shareholder in 36 North.</p> <p>12 Q. Yes, but who was your lawyer acting for</p> <p>13 you with the RGP?</p> <p>14 A. Lewis Baglietto. I don't know the</p> <p>15 relevance of the 36 North situation when, by</p> <p>16 that time, 36 North didn't have any contract.</p> <p>17 It was already decided well before by the</p> <p>18 Chief Minister to give it to another party, so I</p> <p>19 don't know the relevance of asking me</p> <p>20 whether a shareholder in 36 North was going</p> <p>21 to represent me.</p> <p>22 Q. You do not see the relevance of that.</p> <p>23 A. No.</p> <p>24 Q. You do not.</p> <p>25 A. No.</p> <p style="text-align: center;">Page 234</p> | <p>1 A. No.</p> <p>2 Q. You were not concerned for him.</p> <p>3 A. Whatever he told me, it must have been</p> <p>4 something which he thought was appropriate.</p> <p>5 Q. Did it alarm you?</p> <p>6 A. No. What alarmed me was the way they</p> <p>7 came with a warrant, and from what I have</p> <p>8 read all because he was going to destroy his.</p> <p>9 What evidence did they have of that? I'm</p> <p>10 telling you, in my view, and I repeat it, I'm</p> <p>11 sorry, the investigation was fundamentally</p> <p>12 flawed.</p> <p>13 Q. May I return to the thing that I was</p> <p>14 asking about, which is --</p> <p>15 A. Of course.</p> <p>16 Q. - you speaking to Mr Picardo and him</p> <p>17 saying, as you told the Chairman, something</p> <p>18 about the police being interested in you on</p> <p>19 one or two occasions. I think my question</p> <p>20 was to this effect: if Mr Picardo had that</p> <p>21 from a private source, would you have</p> <p>22 expected him betray the confidence to you?</p> <p>23 A. That's for Mr Picardo to answer, not for</p> <p>24 me.</p> <p>25 Q. Well, would you have asked him to do</p> <p style="text-align: center;">Page 236</p> |

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| <p>1 that?</p> <p>2 A. I didn't ask him to do anything.</p> <p>3 Q. Please do not think me rude, and I</p> <p>4 understand it is an uncomfortable chair, but</p> <p>5 your answers will not be completely picked</p> <p>6 up unless --</p> <p>7 A. Sorry.</p> <p>8 Q. Not at all.</p> <p>9 A. I tried all the time to --</p> <p>10 Q. Yes, not at all. By all means move it</p> <p>11 closer to you.</p> <p>12 A. I don't - it can't be... Thank you.</p> <p>13 Q. In the period when the police had come</p> <p>14 on the 12th and they had asked you to attend</p> <p>15 for interview under caution on the 18th,</p> <p>16 which was the following Monday, in that</p> <p>17 period, while you were waiting for interview</p> <p>18 and they had given you the notice which</p> <p>19 showed the topics that they wanted to ask</p> <p>20 you about, what considerations did you</p> <p>21 expect the Chief Minister or the Attorney</p> <p>22 General to apply in deciding whether or not</p> <p>23 to speak to you?</p> <p>24 A. I said before. That question was asked by</p> <p>25 Mr Santos and I gave my answer then.</p> <p style="text-align: center;">Page 237</p> | <p>1 Q. Did you know that Mr Baglietto was a</p> <p>2 friend of his?</p> <p>3 A. Of who?</p> <p>4 Q. Of the Chief Minister.</p> <p>5 A. Of course.</p> <p>6 Q. Did that affect you one way or another in</p> <p>7 asking Mr Baglietto to represent you?</p> <p>8 A. No. It wasn't for that. Mr Baglietto is the</p> <p>9 head of our litigation department. We have</p> <p>10 been partners for many years and I trust in</p> <p>11 his abilities and that's why I asked him.</p> <p>12 Q. Could I ask that we have, please, page B</p> <p>13 1423 on screen again. These are messages,</p> <p>14 as you can see, between Mr Baglietto and Mr</p> <p>15 Picardo, and you have been asked about the</p> <p>16 message at 11.52 about the reassurance.</p> <p>17 Could I take you on to the message at 23.03.</p> <p>18 Mr Baglietto says: "Yes, excellent. We can</p> <p>19 put it to good use for sure." That may refer</p> <p>20 to the HMIC report in the comment above.</p> <p>21 Can you tell us who the "we" is?</p> <p>22 A. I assume it's meaning the people who are</p> <p>23 dealing with this matter. I don't know.</p> <p>24 Q. Dealing with what matter?</p> <p>25 A. With I assume the matter of the warrant.</p> <p style="text-align: center;">Page 239</p> |
| <p>1 Q. What was your answer?</p> <p>2 A. My answer was that I think lawyers</p> <p>3 representing people who had been arrested or</p> <p>4 approached by the police can, in my view,</p> <p>5 speak to whoever they feel appropriate.</p> <p>6 Q. And to meet with you?</p> <p>7 A. To meet with whom?</p> <p>8 Q. To meet with you. What consideration</p> <p>9 would you expect the Chief Minister to take</p> <p>10 into account in deciding whether to meet</p> <p>11 with you?</p> <p>12 A. I went to see him on a totally different</p> <p>13 matter.</p> <p>14 Q. And were you scrupulous not to mention</p> <p>15 the matter for which you were awaiting</p> <p>16 interview?</p> <p>17 A. He was, as I said before, he was</p> <p>18 concerned about police, the way the police</p> <p>19 approached this, but he wasn't specifically on</p> <p>20 that. In his mind he was concerned about</p> <p>21 police powers and how they were used, and</p> <p>22 that was the basis of the conversation.</p> <p>23 Q. Were you surprised that he spoke even</p> <p>24 about that?</p> <p>25 A. No.</p> <p style="text-align: center;">Page 238</p> | <p>1 Q. Your warrant.</p> <p>2 A. Yes.</p> <p>3 Q. And in the message at 23.10 Mr Picardo</p> <p>4 says: "I've sent to JL. Let me know if he sees</p> <p>5 it." What did he send you?</p> <p>6 A. I don't know because I haven't got it.</p> <p>7 Q. Do you remember receiving anything</p> <p>8 from Mr Picardo in that time?</p> <p>9 A. No.</p> <p>10 Q. Would you have been surprised to have</p> <p>11 received anything from Mr Picardo at that</p> <p>12 time?</p> <p>13 A. I don't know who it is.</p> <p>14 Q. Did you - and you will decide whether</p> <p>15 this is in the privileged area or not so do not</p> <p>16 answer for a moment - show whatever</p> <p>17 messages had passed between yourself and</p> <p>18 the Chief Minister to Mr Baglietto? Pause.</p> <p>19 A. I don't know whether it's privileged, so I</p> <p>20 don't know. I don't think I received anything</p> <p>21 from the Chief Minister. Whatever I did was</p> <p>22 I spoke to him mainly.</p> <p>23 Q. Again, pause before you answer. Did</p> <p>24 you tell Mr Baglietto about your contact with</p> <p>25 the Chief Minister?</p> <p style="text-align: center;">Page 240</p> |

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| <p>1 A. What, on the way to the office?</p> <p>2 Q. Any contact between yourself and the</p> <p>3 Chief Minister.</p> <p>4 A. There wasn't that much contact between</p> <p>5 myself and the Chief Minister.</p> <p>6 Q. Not much, but any.</p> <p>7 A. I don't know in casual conversation I</p> <p>8 mentioned something. I don't remember.</p> <p>9 This is four years ago nearly.</p> <p>10 Q. You were hoping, were you, to avoid</p> <p>11 being charged with a criminal offence.</p> <p>12 A. I wasn't hoping; I thought I shouldn't be</p> <p>13 charged, so that's something totally different.</p> <p>14 I was convinced that they shouldn't have</p> <p>15 charged me. I said, I repeat it again - I don't</p> <p>16 know how many times you want me to repeat</p> <p>17 it - but you haven't, of course, reacted to that.</p> <p>18 I believe that the investigation was</p> <p>19 fundamentally flawed.</p> <p>20 Q. And you were hoping to avoid an</p> <p>21 interview under caution.</p> <p>22 A. I wasn't. Of course I didn't want to have</p> <p>23 an interview because I didn't think I deserved</p> <p>24 it. I think the investigation was</p> <p>25 fundamentally flawed.</p> <p style="text-align: center;">Page 241</p> | <p>1 Q. Did the warrant not expire in this case?</p> <p>2 A. I'm not aware. If it had expired it</p> <p>3 wouldn't have made any difference.</p> <p>4 Q. It expired without being executed, did it</p> <p>5 not?</p> <p>6 A. Well, I thought that my giving the things</p> <p>7 made it expire. I haven't done criminal law</p> <p>8 for 30 years.</p> <p>9 Q. Without your telephone being examined.</p> <p>10 Is that right?</p> <p>11 A. I don't understand the question.</p> <p>12 Q. Did you think your telephone had been</p> <p>13 examined or not?</p> <p>14 A. I thought it was examined actually, but</p> <p>15 then I found out quite quickly that it wasn't</p> <p>16 examined. But we gave the facilities by</p> <p>17 having our IT man talk to the IT person from</p> <p>18 the RGP.</p> <p>19 Q. Did you know that the police - that the</p> <p>20 Director of Public Prosecutions thought that</p> <p>21 without that they would not have enough to</p> <p>22 charge you?</p> <p>23 A. I think even with that they wouldn't have</p> <p>24 anything to charge me with.</p> <p>25 Q. Did you know the Director's view about</p> <p style="text-align: center;">Page 243</p> |
| <p>1 Q. And you were hoping to avoid arrest.</p> <p>2 A. What?</p> <p>3 Q. Arrest.</p> <p>4 A. Of course I'm hoping to avoid arrest. I</p> <p>5 don't think there was a reason to arrest me,</p> <p>6 frankly. I think it was fundamentally flawed.</p> <p>7 It was wrong by the police.</p> <p>8 Q. And were you hoping to avoid an</p> <p>9 examination of your telephone?</p> <p>10 A. I was not avoiding an examination of my</p> <p>11 telephone, but you don't answer my - you</p> <p>12 don't have to answer, I have to answer - but I</p> <p>13 said that it was fundamentally flawed and I</p> <p>14 hope to show how fundamentally flawed it is.</p> <p>15 Q. And you were hoping - is this right? - to</p> <p>16 see as much of the prosecution evidence as</p> <p>17 you could before making any comment.</p> <p>18 A. That's normal, isn't it?</p> <p>19 Q. I have not suggested that it is not.</p> <p>20 A. Oh, so were(?) me on something.</p> <p>21 Q. Were you hoping that if it went on long</p> <p>22 enough the warrant would expire?</p> <p>23 A. Those things don't happen. Not in</p> <p>24 Gibraltar. Especially when there was such a</p> <p>25 motive for this, for this investigation.</p> <p style="text-align: center;">Page 242</p> | <p>1 that?</p> <p>2 A. He can have his view; I have mine.</p> <p>3 Q. Did you know the Director's view about</p> <p>4 that?</p> <p>5 A. Well, the Director first said, if I</p> <p>6 remember, if I can see some of the taped</p> <p>7 conversations, was that if anything sharp</p> <p>8 practice, but I didn't think there was any</p> <p>9 sharp practice but --</p> <p>10 Q. The taped conversations, obviously you</p> <p>11 mean the meetings of 13, 15 and 20 May, and</p> <p>12 what I am referring to is - the Chairman will</p> <p>13 decide what it means but the apparent</p> <p>14 expression of a view by the Director of</p> <p>15 Public Prosecutions in the meeting of the 15th</p> <p>16 that, without that, there would not be enough</p> <p>17 to charge you. That view. Was that</p> <p>18 communicated to you?</p> <p>19 A. No, I just saw it when I read the papers</p> <p>20 for the Inquiry.</p> <p>21 Q. And in all of this, what help, if any, did</p> <p>22 you think the Chief Minister might be able to</p> <p>23 give you?</p> <p>24 A. I didn't think the Chief Minister could</p> <p>25 give me any help.</p> <p style="text-align: center;">Page 244</p> |

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| <p>1 Q. What help did you think, if any, that the 2 Attorney General could give you? 3 A. I have said before that I was complaining 4 to the Attorney General as a member of the 5 Bar who was given a - there was application 6 for a warrant in what I considered was a 7 fundamentally flawed police investigation. 8 Q. I have very little more, Mr Levy. Could I 9 ask that we bring up C 6901, please. You 10 were shown this on 13 May. 20.57 you say: 11 "On the other matter I feel I've been hung out 12 to dry, certainly not by you." And Mr 13 Llamas, the Attorney General says: "Don't 14 worry." You were asked about "don't 15 worry". Could I ask you about "I feel I've 16 been hung out to dry." 17 A. That means that the police had acted 18 wrongly. 19 Q. Yes, that is not what it says though, does 20 it? It says: "I feel I've been hung out to dry." 21 A. By the police. 22 Q. By the police? 23 A. Yes. 24 Q. Did you feel you had been let down? 25 A. By whom?</p> <p style="text-align: center;">Page 245</p> | <p>1 Q. No, and did those include the transcripts 2 of the meetings on 13, 15 and 20 May? 3 A. They did. 4 Q. They did. 5 A. But this wasn't a priority for me. I will 6 read them, of course. It's very important to 7 read them but it wasn't something that I 8 thought was going to be so relevant for me to 9 give evidence, and I had other things to do. 10 Q. Is there anything in the way in which they 11 approached those meetings which surprised 12 you? 13 A. Yes. 14 Q. The way in which they may be thought to 15 have advocated for you. 16 A. Who? 17 Q. The Attorney and the Director. 18 A. I think it's quite proper. They probably 19 realised, as I do now, and the more I see the 20 more I look into it, that the - I've said it 21 before, that it's a fundamentally flawed 22 investigation for many, many reasons. Some 23 of them have come out, others will come out, 24 no doubt. 25 Q. You presumably did not consider</p> <p style="text-align: center;">Page 247</p> |
| <p>1 Q. That was my next question. 2 A. No. 3 Q. By no one. 4 A. No, by the police. 5 Q. Had you any expectation that you might 6 be protected against this sort of investigation 7 or intrusion? 8 A. Not at all. I had the expectation of being 9 dealt with fairly by the police, which I 10 wasn't. 11 Q. Have you now had a chance to see the 12 transcripts of the tape recorded meetings on 13 13, 15 and 20 May? 14 A. Not all of them. I was concentrating on 15 what I had to answer in respect of quite a late 16 contact to read up the affidavits of Mr 17 McGrail, of Mr Richardson, and everything 18 which referred to me. 19 Q. You mean, quite properly, that solicitors 20 to the Inquiry have provided you with some 21 of the material that they thought might be 22 relevant to your giving evidence. 23 A. Absolutely, and they never denied to 24 provide me anything I asked for which they 25 felt were relevant.</p> <p style="text-align: center;">Page 246</p> | <p>1 yourself to be above the law in Gibraltar. 2 A. Certainly not, and I don't see how you 3 can actually suggest that, but it's a matter for 4 you. 5 Q. Who do you say is the most powerful 6 lawyer in Gibraltar? 7 A. Powerful? 8 Q. Yes, who is the most powerful -- 9 A. Certainly not I. 10 Q. Not you. Who is? 11 A. Other people. I don't know. Why should 12 I give that - that's a view. I think it's totally 13 irrelevant. I am the senior partner of the 14 largest firm, correct, and I have the most 15 number of lawyers, but that doesn't mean I'm 16 the most powerful lawyer in Gibraltar. It 17 depends actually in what the power you're 18 talking about. 19 Q. Does any other lawyer have more power 20 than you, for instance, politically? 21 A. Certainly. I'm not going to name him. 22 It's not a fair question, with respect. 23 MR GIBBS: Those are all my questions. 24 Thank you. 25 Re-examination by Mr SANTOS</p> <p style="text-align: center;">Page 248</p> |

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| <p>1 Q. I only have two questions by way of 2 clarification. One of them is you said in 3 answer to questions, Mr Levy, that the 4 purpose of the meeting at the Chief 5 Minister's home on 17 May was in order to 6 offer your resignation as CEO of Community 7 Care -- 8 A. Chairman. 9 Q. Chairman, thank you. Of Community 10 Care. Why was it necessary for Mr Baglietto 11 KC to accompany you to that meeting? 12 A. No, that was just to help me as a person. 13 I was in a very bad state. I have to admit it. 14 Q. You have referred repeatedly to the 15 investigation being flawed. In fairness to 16 you, I would like to offer you the opportunity 17 to explain why you consider that the 18 investigation was flawed. 19 A. Well, primarily because it was led not by 20 the police, it was led by the competitor to 36 21 North, and I don't want to say any more 22 because matters are being looked at. 23 MR SANTOS: Mr Wagner is indicating to 24 me that he has questions arising from the 25 evidence. I am happy for him to ask for your</p> <p style="text-align: center;">Page 249</p> | <p>1 MR WAGNER: Yes. In fact, one area came 2 out of Mr Santos's examination and one area 3 from Mr Gibbs. 4 THE CHAIRMAN: Okay, but I am going to 5 keep you to the time limit. 6 MR WAGNER: That's fair enough. 7 Questioned by MR WAGNER 8 MR WAGNER: Good afternoon, Mr Levy. 9 A. Good afternoon. 10 Q. Just two areas. One is about the text 11 messages between you and Mr Picardo and 12 you and Mr Llamas. I just want to clarify: 13 I think it's right that you said, and please tell 14 me if this is wrong, that you have some of the 15 historic messages between you and 16 Mr Picardo, but not all of them? 17 A. I said I don't know exactly, but I have 18 undertaken to get my IT people to look at it, 19 and if required to file an affidavit. 20 Q. I am asking you whether you said that 21 you have some of the messages on your 22 phone, but not all of them? 23 A. I don't recall saying that. 24 Q. Have you looked on your phone to see 25 whether you have messages from that period,</p> <p style="text-align: center;">Page 251</p> |
| <p>1 consent, sir. 2 THE CHAIRMAN: Discuss your evidence 3 with Mr Santos. I will rise briefly. 4 (16.33) 5 (Adjourned for a short time) 6 (16.42) 7 THE CHAIRMAN: Yes, Mr Wagner. 8 MR WAGNER: I have sought permission to 9 ask questions on a couple of areas -- in fact, 10 two areas -- arising from the evidence that 11 has been elicited this afternoon. It shouldn't 12 take more than -- no more than ten minutes, 13 but I really am hoping it will be less. 14 THE CHAIRMAN: Two minutes? 15 MR WAGNER: Ten minutes. Between five 16 and ten. And I am applying under the 17 Protocol 5E where circumstances may arrive 18 that the 14 or seven days' notice are not 19 possible. For example, where -- 20 THE CHAIRMAN: Because they arose out 21 of Mr Gibb's examination? 22 MR WAGNER: Yes. I think both came out 23 of Mr Gibb's examination, exactly. 24 THE CHAIRMAN: Okay. Five to 25 ten minutes did you say?</p> <p style="text-align: center;">Page 250</p> | <p>1 May/June 2020 and before? 2 A. Not only have I looked at it, but my IT 3 people have looked at it also. 4 Q. So you have looked? 5 A. Yes. 6 Q. And when you looked were there no 7 messages at all between you and Mr Picardo 8 from that period? 9 A. Correct. 10 Q. There were no messages. And when you 11 looked, were there no messages between you 12 and the Attorney General, Mr Llamas, from, 13 I suppose, the period before your phone 14 packed it in a year ago? 15 A. The relevant messages -- the messages 16 there to do with this matter. 17 Q. They were? The messages were there? 18 A. No. It's the one that's published, the one 19 that has been shown to me -- 20 Q. The "don't worry" messages were there? 21 A. Correct. 22 Q. So you have historic messages from the 23 Attorney General on your phone right now? 24 A. Yes. 25 Q. And have you been through individually</p> <p style="text-align: center;">Page 252</p> |

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| <p>1 each of those messages from 2018, 2019 and 2 onwards to see if there are -- 3 A. I don't -- 4 Q.-- to see if there are any relevant 5 messages? 6 A. I don't think I have all the messages, but 7 I will look again. 8 Q. I am sorry, I am just going to ask one 9 more question. I am quite confused about 10 what you are saying, forgive me. You said 11 you looked back on your phone and you have 12 seen the "hung out to dry" and "don't worry" 13 message on your phone? 14 A. Yes. 15 Q. You have. That's from 2020. So you 16 have at least two, or three, messages going 17 back to 2020 with the Attorney General; is 18 that right? 19 A. Yes, but I didn't have many messages, 20 generally, with the Attorney General. 21 Q. So you have more than those -- 22 A. I have all the relevant ones -- 23 Q. You have more than those messages? 24 A. Yes. 25 Q. Have you checked all of your messages</p> <p style="text-align: center;">Page 253</p> | <p>1 A. No. But again it was known by 2 everybody. 3 Q. Therefore, was it not obvious at the time 4 when the Chief Minister and the 5 Attorney General were meeting with the 6 Commissioner of Police and the investigative 7 officers about your case that they would be 8 discussing information which was not 9 publicly available? 10 A. Yes, I assume so. 11 Q. Yes. And it would have been obvious to 12 you at the time, is that fair? 13 A. Sorry, it depends on what you call 14 "publicly available". 15 Q. Well, private information in the 16 investigation that wasn't known to the 17 public? 18 A. Yes. But the fact that they came to my 19 house and my office was widely known 20 publicly, yes. This is Gibraltar. 21 Q. But the information in the investigation 22 wasn't widely known? 23 A. No. 24 Q. No. You said to Mr Santos about red 25 lines. You said: "I know what the red lines</p> <p style="text-align: center;">Page 255</p> |
| <p>1 that you have historically to see whether they 2 are relevant to this Inquiry? 3 A. Yes. 4 Q. You have. And are they relevant to this 5 Inquiry? 6 A. No. 7 Q. No. And the other question is about 8 something that arose from Mr Santos's 9 evidence. Was it ever publicly announced in 10 2020 that you were a suspect in the Op Delhi 11 investigation? 12 A. Publicly announced? 13 Q. The RGP didn't announce it on their -- 14 A. Not to my knowledge. 15 Q. And was it ever publicly announced that 16 you were the subject of a search warrant? 17 A. No. But everybody knew about it in 18 Gibraltar. 19 Q. All right. But it wasn't announced by the 20 RGP? 21 A. No, no. 22 Q. Was it ever publicly announced that the 23 police came to the Hassans offices and your 24 home to attempt to extract -- to obtain your 25 electronic devices?</p> <p style="text-align: center;">Page 254</p> | <p>1 are: to be careful not to ask for any 2 information which is not publicly available." 3 In your and Mr Baglietto's regular 4 communications with the Chief Minister and 5 the Attorney General on 12 May and in the 6 days following, how were you careful not to 7 ask for any information which was not 8 publicly available? 9 A. Well, you just know the limits. 10 Q. Did you set down those limits? 11 A. No, I -- I had, I think, one conversation 12 with the Attorney General. After that I didn't 13 get involved anymore. 14 Q. Did you instruct Mr Baglietto, when he 15 was in correspondence with the Chief 16 Minister and the Attorney General, how to 17 not cross those red lines that you had -- 18 A. Mr Baglietto -- 19 Q.-- set up for yourself? 20 A. Mr Baglietto is a very experienced silk. 21 He knows what he does. 22 Q. Did you at any point say to the Chief 23 Minister or the Attorney General when you 24 spoke to them and met with them, "There are 25 some red lines here, I don't want to know</p> <p style="text-align: center;">Page 256</p> |

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| <p>1 anything that you've obtained privately from 2 the Royal Gibraltar Police"?</p> <p>3 A. No.</p> <p>4 MR WAGNER: No further questions. 5 Thank you.</p> <p>6 THE CHAIRMAN: Thank you very much 7 indeed. Thank you for coming. You are free 8 to go.</p> <p>9 A. Thank you.</p> <p>10 MR SANTOS: Thank you, Mr Levy. 11 THE CHAIRMAN: Tomorrow?</p> <p>12 MR SANTOS: Yes.</p> <p>13 A. I don't have to come tomorrow?</p> <p>14 THE CHAIRMAN: You don't have to come 15 tomorrow. No, no, you are finished.</p> <p>16 A. Thank you, sir.</p> <p>17 MR SANTOS: Tomorrow we will deal with, 18 I would propose, Detective Sergeant Clarke. 19 He may not be that rank anymore, he may be 20 higher, but Clarke first.</p> <p>21 THE CHAIRMAN: Yes.</p> <p>22 MR SANTOS: And then Mr Baglietto KC 23 second. That's what I would propose.</p> <p>24 THE CHAIRMAN: Clarke is not going to 25 take very long, I don't think, is he?</p> <p style="text-align: center;">Page 257</p> | |
| <p>1 MR SANTOS: No, I don't think so. I don't 2 think so, no.</p> <p>3 THE CHAIRMAN: Okay. 10 o'clock.</p> <p>4 Thank you.</p> <p>5 (Adjourned until 10.00 am, Thursday, 18 6 April 2024) 7 (16.51)</p> <p style="text-align: center;">Page 258</p> | |

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