

<p>1 (Tuesday, 30 April 2024) 2 (10.05) 3 THE CHAIRMAN: Yes. 4 MR JOHN FIELD, SWORN 5 EXAMINED BY MR SANTOS 6 THE WITNESS: Superintendent John Field. 7 THE CHAIRMAN: You are very softly 8 spoken. You might just move the 9 microphone a bit closer to you. 10 MR SANTOS: You can move the whole 11 thing closer to you. 12 THE CHAIRMAN: Yes. 13 <b>A. I have got a loud voice. That is why.</b> 14 MR SANTOS: Thank you. Good morning, 15 sir. Our first witness is DCI John Field. 16 <b>A. Superintendent John Field.</b> 17 Q. Superintendent - my apologies. My 18 apologies. Superintendent John Field. Mr 19 Field, can I just ask you please to check that 20 you have a bundle in front of you that is 21 marked "witness statements"? You may not 22 actually have that but there should be a 23 bundle with two - your two witness 24 statements to this inquiry in them. Can I ask 25 you to please check for the first one. I think</p> <p style="text-align: center;">Page 1</p>	<p>1 Q. Thank you. I understand that you are 2 currently on pre-retirement leave at the RGP. 3 <b>A. That is correct.</b> 4 Q. What was your rank at the time of 5 Operation Kram? 6 <b>A. I was a detective chief inspector of the 7 Crime and Protective services.</b> 8 Q. What was your - can you just explain a 9 bit about that role and what your role was, 10 please? 11 <b>A. My role there was the governance of all 12 the Crown Protective Services and that 13 included public protection unit, special 14 branch - in those days - CID, drug squad, 15 high tech crime, crime scene investors, 16 domestic abuse. A big business area.</b> 17 Q. Just to be abundantly clear about this, 18 were you part of the RGP marine section at 19 all? 20 <b>A. No.</b> 21 Q. Did you have responsibility of that 22 marine section? 23 <b>A. No.</b> 24 Q. Turning to your relationship with Mr 25 McGrail, how long have you known Mr</p> <p style="text-align: center;">Page 3</p>
<p>1 it might be in front of that blue tab. That file 2 that you are looking at, I think it might be 3 earlier in the file. 4 <b>A. This is the first one.</b> 5 Q. That is the first one? 6 <b>A. It is the first statement that is missing. 7 (After a pause) Yes.</b> 8 Q. Can I just ask you to check that that is 9 your first witness statement to the inquiry 10 and check that your signature is on the final 11 page. 12 <b>A. Yes, it is.</b> 13 Q. Are the contents of that witness statement 14 true to the best of your knowledge, 15 information and belief? 16 <b>A. Yes, it is.</b> 17 Q. Then there should be your second 18 statement behind the next tab. 19 <b>A. Again, and that is my signature.</b> 20 Q. Thank you, and are the contents of that 21 witness statement true -- 22 <b>A. Yes.</b> 23 Q. -- to the best of your knowledge 24 information and belief? 25 <b>A. Yes.</b></p> <p style="text-align: center;">Page 2</p>	<p>1 McGrail? 2 <b>A. How long? I would say practically all of 3 my career.</b> 4 Q. How long has your career been? 5 <b>A. Well, I am 32 years in service now. He 6 left two or three years ago so - he left in '20, 7 so 28 years more or less I would say.</b> 8 Q. What was your relationship like when 9 you worked together? 10 <b>A. It was a good one. I worked under him in 11 drug squad, and I believe under him when he 12 was superintendent of Crime Protective 13 Services when I was attached to the GCID 14 department Gibraltar, a criminal investigation 15 department.</b> 16 Q. What relationship do you have now? 17 <b>A. Well, I am sad to say that since 2020 we 18 have not had much contact or anything like 19 that.</b> 20 Q. In your dealings with Mr McGrail, did 21 you find him to be an honest officer? 22 <b>A. Without a doubt.</b> 23 Q. Another topic I want to cover is the day 24 books. The inquiry has recently been given 25 copies of the relevant pages of your day book</p> <p style="text-align: center;">Page 4</p>

1 (Pages 1 to 4)

<p>1 from the time of operation Kram. Do you 2 agree that this is a document which aids the 3 inquiry's understanding of the early hours 4 following the incidents at sea? 5 <b>A. I would say so, yes.</b> 6 Q. Did you refer to your day book when you 7 were drafting your witness statements to the 8 inquiry? 9 <b>A. Yes.</b> 10 Q. Did you make it available to your lawyers 11 during the disclosure exercise? 12 <b>A. I did, yes.</b> 13 Q. Do you understand why that has not been 14 disclosed to the inquiry until only a short 15 while ago? 16 <b>A. No. My recollection is that I - I had my 17 day book scanned; it was copied, I then went 18 through the process of redacting and taking 19 away personal data, mobile phones and stuff 20 like that. That was as far as I remember. It 21 had been submitted but only last week I had a 22 meeting with my solicitor, Mr Cruz, and I 23 had the issue about my day book, and his 24 response left me a bit - a bit confused and it 25 appeared that I hadn't, so I also had the</b></p> <p style="text-align: center;">Page 5</p>	<p>1 March 2020, the day of the incident - the 2 collision at sea - when did you make those 3 notes? 4 <b>A. I was the gold commander on call on that 5 weekend, and I remember it was a Friday and 6 it was a long weekend, and I took a notebook 7 home with me just in case I got called and I 8 had to make - scribble some notes. So, that 9 notebook was at the time that it was 10 occurring, and then when I got to the office I 11 probably left it and in sight of my day book, 12 so the notes on my notebook would have 13 been there and then, and you can see that 14 they are rushed and all that; and the others, 15 during the day whenever I had a chance to. 16 Yes.</b> 17 Q. Can we look at your A798, which is your 18 first witness statement which you should 19 have in front of you at paragraph 21, please? 20 <b>A. Yes.</b> 21 Q. You say, "At 03.53hours on the morning 22 of the 8" of March 2020, I received a call 23 from 24 the duty Inspector, John Lutkin who made a 25 report to me concerning a collision at sea</p> <p style="text-align: center;">Page 7</p>
<p>1 <b>conversation with Mr Yeats who confirmed 2 that they had not been submitted. I do not 3 know why. So, I went through the process of 4 copying everything again, redacting 5 everything again and submitting everything 6 again, so unless you get the members of the 7 disclosure team, I do not know what 8 happened.</b> 9 Q. Just to be clear about this, when did you 10 first go through that process of copying and 11 redacting? 12 <b>A. When --</b> 13 Q. Roughly. 14 <b>A. When I was approached by the disclosure 15 team for them, but I honestly can't remember.</b> 16 Q. More than a year ago? 17 <b>A. Yes, I think so. Yes.</b> 18 Q. When you make notes in your day book, 19 do you do - did you tend to do that 20 contemporaneously as it happened? Did you 21 tend to do that on the same day, or -- 22 <b>A. Best case scenario, when it is occurring 23 there and then. When not, shortly after, but 24 certainly within the day for sure.</b> 25 Q. As far as you remember, your notes for 8</p> <p style="text-align: center;">Page 6</p>	<p>1 between an RGP vessel, the Sir John Chapple 2 and a suspect vessel. I was also made aware 3 that there was one fatality ... and that another 4 person was seriously injured". Was any 5 indication given to you at that time, at 03:53 6 hours, in terms of the location of that 7 collision? 8 <b>A. No.</b> 9 Q. When was the first time that you received 10 any intelligence on the location of the 11 collision? 12 <b>A. The first time I received anything in 13 respect of the approximate location was 14 at 09:40 hours when inspector Chipolina 15 relayed a message he had received from the 16 Guardia Civil in respect of the coordinates 17 that that they had. Although those were still 18 subject to confirmation because they needed 19 to be extracted by the technical officer.</b> 20 Q. We will come to those coordinated, but 21 just - can we look at paragraph 38 of your 22 statement, please? 23 <b>A. Yes.</b> 24 Q. This is a paragraph where you are dealing 25 with the briefing the Commissioner of Police,</p> <p style="text-align: center;">Page 8</p>

2 (Pages 5 to 8)

<p>1 but I want to pick it up about five lines down, 2 and at the penultimate line on that page 3 where you say, "Considering that the initial 4 report was that PMB had been involved in a 5 chase out at sea, approximately 3miles off 6 Europa Point, at that moment in time, it was 7 a safe assumption that the chase/ part of it, 8 had occurred in our jurisdiction". Do you 9 recall who provided this initial report? 10 <b>A. What, the approximate three miles? That 11 came --</b> 12 Q. No, Europa Point, please. 13 <b>A. That came from, I believe it was from 14 Officer 1 to CAD - control(sic) and dispatch 15 - and that was relayed to me --</b> 16 THE CHAIRMAN: Sorry, it came from 17 who? 18 MR SANTOS: From Officer 1. 19 <b>A. Yes.</b> 20 Q. (To the witness) When you say "Officer 21 1", do you mean Officer 1 on the vessel? 22 THE CHAIRMAN: Of the twelve crew. 23 <b>A. Yes.</b> 24 THE CHAIRMAN: Right, okay. 25 <b>A. That is my information that the relayed</b></p> <p style="text-align: center;">Page 9</p>	<p>1 <b>coordinates were from the Guardia Civil, as I 2 was just mentioned, those were --</b> 3 THE CHAIRMAN: Just go slowly. What 4 coordinates? You have not mentioned 5 coordinates. 6 MR SANTOS: We will turn to the Guardia 7 Civil coordinates shortly -- 8 THE CHAIRMAN: We have got all day; 9 you take your time. 10 <b>A. Okay.</b> 11 THE CHAIRMAN: Just go slowly. 12 <b>A. Will do.</b> 13 THE CHAIRMAN: Try to start at the 14 beginning -- 15 MR SANTOS: Yes. 16 THE CHAIRMAN: -- and go through to the 17 end in an orderly way. 18 MR SANTOS: (To the witness) Why do we 19 not turn to C6953. This is an extract from 20 your day book that we were just discussing. 21 I think that this is your day book rather than 22 the notebook that you were referring to that 23 you were filling in from home, but could you 24 please confirm that? 25 <b>A. That is correct. Yes.</b></p> <p style="text-align: center;">Page 11</p>
<p>1 <b>that to the command and dispatch.</b> 2 MR SANTOS: Can you please just explain 3 what the "command and dispatch" means? 4 <b>A. Command and dispatch is our control 5 room. It is where we receive all the calls, 6 they are allocated and then they are 7 responded to, and everything is recorded.</b> 8 Q. At what time did this initial report come 9 in, from your recollection? 10 <b>A. I --</b> 11 Q. If you do not have a clear recollection, 12 we can look in your day book. 13 <b>A. Can I?</b> 14 Q. We will come to it now. I am about to 15 turn to your day book. 16 <b>A. Because I can't remember it from the top 17 of my head.</b> 18 Q. That is understandable. Did you inform 19 Mr McGrail and superintendent Richardson 20 of this initial report in terms of Europa Point? 21 <b>A. Yes. I have said it here.</b> 22 Q. How certain were you about the contents 23 of this initial report? 24 <b>A. Well, this is what was relayed to CAD by 25 the crew, by Officer 1 I believe it was. The</b></p> <p style="text-align: center;">Page 10</p>	<p>1 Q. I think that it was at about quarter past six 2 in the morning that you transfer - that you 3 switch from filling in your notebook to filling 4 in your day book. Is that correct? 5 <b>A. Correct.</b> 6 Q. I just want to focus on the entry at the 7 bottom of the first page at 7 o'clock. There is 8 - the final entry says, "SP". Can you please 9 explain what "SP" means? 10 <b>A. Those were initials, that is the initials I 11 give to my officers for recollection instead of 12 writing everything down. That would have 13 been Sean Perera.</b> 14 Q. Sean Perera. Can you just please -- 15 <b>A. That is basically Sean Perera, and he said 16 that the suspect had told O'Flattery, who is 17 one of our officers, that Nordin, who was one 18 of the crew - on the suspect crew, and that 19 was his account that this happened by the 20 Alcaidesa. "Hurry up to help his friend", The 21 police officers came slowly, 5 knots, and 22 without lights -- blue lights.</b> 23 THE CHAIRMAN: I have got very 24 confused. Could you just go through who 25 these people are again.</p> <p style="text-align: center;">Page 12</p>

<p>1 <b>A. Nordin was one of the persons within the</b>  2 <b>suspect vessel.</b>  3 MR SANTOS: So, Nordin is the name at the  4 end of the first line.  5 THE CHAIRMAN: Yes.  6 MR SANTOS: That is the name of one of  7 the individuals on the suspect vessel. I think  8 you said that O'Flattery was one of the  9 officers who was talking to the suspect.  10 <b>A. Correct.</b>  11 Q. I just want to focus really on those first  12 five words. "This happened by the  13 Alcaidesa...", that was something -  14 information which came from the suspect?  15 <b>A. Yes.</b>  16 Q. For clarification, when he said, "... by the  17 Alcaidesa", that is at the north end of Santa  18 Barbara beach? Would that be accurate?  19 <b>A. Yes, I would say so.</b>  20 Q. Then if we go over the page, about a third  21 of the way down, there is an entry that says,  22 "Windy has no coordinates..." Is that a  23 reference to --  24 <b>A. Correct.</b>  25 Q. - Windmill Hill signal station?</p> <p style="text-align: center;">Page 13</p>	<p>1 THE CHAIRMAN: What was the source of  2 that information?  3 <b>A. From my recollection that came from</b>  4 <b>CAD as well.</b>  5 THE CHAIRMAN: Came from?  6 <b>A. Control and dispatch.</b>  7 MR SANTOS: You were saying earlier that  8 that information was received from Officer 1  9 on the vessel?  10 <b>A. I believe so, yes.</b>  11 Q. That is your belief, yes. Then if we just  12 go to the bottom of the page, there is an entry  13 that is headed "A Enriles". Is that another  14 officer who was assisting you at the time?  15 <b>A. Correct.</b>  16 Q. What was his position?  17 <b>A. I can't remember exactly but he had a task</b>  18 <b>in - there were many officers with many</b>  19 <b>tasks and so to identify each one, I would</b>  20 <b>have to go through the notes, if you want.</b>  21 Q. Let us just focus on this for now.  22 Underneath, could you just please read the  23 first two and a half lines up to the dash?  24 <b>A. Yes. "Iain Andery who was a port officer</b>  25 <b>04:00, received --</b></p> <p style="text-align: center;">Page 15</p>
<p>1 <b>A. Yes.</b>  2 Q. Then the next line says, "NG and JL, 3  3 miles off Europa Point --  4 <b>A. Those are the initials for Mark Garratt --</b>  5 Q. Yes.  6 <b>A. - who was working for me on the day,</b>  7 <b>and John Lutkin who was duty inspector.</b>  8 <b>They said three miles off Europa Point.</b>  9 THE CHAIRMAN: Which was the first  10 one?  11 MR SANTOS: Mark Garratt.  12 THE CHAIRMAN: Who is he?  13 <b>A. A police officer.</b>  14 MR SANTOS: A police officer working for  15 superintendent Field on the day.  16 THE CHAIRMAN: There were an awful lot  17 of police officers.  18 <b>A. There were many.</b>  19 MR SANTOS: So, what was his position?  20 <b>A. He was a sergeant, and he was helping</b>  21 <b>me with all the tasks.</b>  22 THE CHAIRMAN: Okay.  23 MR SANTOS: Then "JL" is, John --  24 <b>A. John Lutkin. He was the duty on-call</b>  25 <b>inspector.</b></p> <p style="text-align: center;">Page 14</p>	<p>1 THE CHAIRMAN: Sorry. Could you just  2 go slowly. All of these notes are on - you  3 have worked with these people for years; this  4 is the first time I have heard of these people.  5 <b>A. Sorry, sir.</b>  6 THE CHAIRMAN: You have just got to  7 take it slowly.  8 <b>A. Okay.</b>  9 THE CHAIRMAN: So, we can follow what  10 you are saying.  11 MR SANTOS: (To the witness) So, you say  12 Iain Andery.  13 <b>A. I think it is Andery. I can't remember his</b>  14 <b>--</b>  15 Q. Andery.  16 <b>A. He is from the port department, and he</b>  17 <b>says that at 04:00 hours he received a phone</b>  18 <b>call from Tarifa Traffic saying there had been</b>  19 <b>an incident by La Atunara(?). He calls the</b>  20 <b>PMB and spoke to someone -- and I have got</b>  21 <b>an initial there, "AF", I think that was Albert</b>  22 <b>Fernandez; I tasked him to find out if they</b>  23 <b>could identify who it was - who informed</b>  24 <b>him that there had been a serious incident,</b>  25 <b>and a boat was being towed back in.</b></p> <p style="text-align: center;">Page 16</p>

4 (Pages 13 to 16)

<p>1 Q. Again, just for clarification purposed, La 2 Atunara is a section of Santa Barbara beach. 3 <b>A. Yes. It is where the port is, more or less.</b> 4 <b>Yes.</b> 5 Q. Yes. Then, the report - it looks as though 6 from your day book, as though the first report 7 that comes in is from one of the individuals 8 on the vessel, saying that it happened by 9 Alcaidesa. Then there is a report about 10 Europa Point, and then there is a report about 11 La Atunara from Tarifa Traffic. Is that how 12 things transpired? 13 <b>A. Yes.</b> 14 Q. Did you pass each of these on to Mr 15 McGrail? 16 <b>A. I don't think I would have passed these</b> 17 <b>things, because these were tasks in progress.</b> 18 <b>So, I may have given the deputy, Mr</b> 19 <b>Richardson, a number of updates but the</b> 20 <b>crucial one which was the one with the</b> 21 <b>coordinates from Guardia Civil in which I</b> 22 <b>had to plot and then make reference to the</b> 23 <b>three miles off, yes I thought that was</b> 24 <b>pertinent but a lot of this was on the go.</b> 25 Q. So, until you received the report from the</p> <p style="text-align: center;">Page 17</p>	<p>1 <b>possibly not working or it had not been</b> 2 <b>switched on, and I am referring to the AIS</b> 3 <b>from the PMB.</b> 4 Q. At the time, were you aware of any 5 procedures within the RGP about AIS 6 systems and whether they should be switched 7 on or off? 8 <b>A. I had read a long time ago that they had -</b> 9 <b>that the AIS had to be switched on.</b> 10 THE CHAIRMAN: Is that in the operating 11 instructions? 12 <b>A. Correct.</b> 13 THE CHAIRMAN: Yes. 14 MR SANTOS: Did it concern you to learn 15 that the AIS was not working or switched 16 on? 17 <b>A. It did, but it was still work in progress</b> 18 <b>and I did not know if it was a fault or not, but</b> 19 <b>it was concerning because that gives you the</b> 20 <b>tracking of the vessel, so it is important to us</b> 21 <b>for accountability, for transparency issues.</b> 22 Q. Did you inform Mr McGrail that AIS was 23 possibly not working or switched on? 24 <b>A. On the day when I delivered that to him,</b> 25 <b>are you referring to the 11:05?</b></p> <p style="text-align: center;">Page 19</p>
<p>1 Guardia Civil the position was that you had 2 two reports of an incident occurring in 3 Spanish waters and one in Gibraltar waters. 4 <b>A. Three miles off Europa Point, and that,</b> 5 <b>yes.</b> 6 Q. If we can now go over the page to 6955, 7 please? Again, there is a reference to 8 "Windy", Windmill Hill having no 9 coordinates or records from "the trace". I 10 think that says, and then "Port don't have 11 anything AIS tracking of the PMB" PMB 12 presumably means Police -- 13 <b>A. Motor Boat.</b> 14 Q. - motor boat vessel. Then there is a 15 reference to PS Stone. Is that Andery - is 16 that Andery again? 17 <b>A. Yes.</b> 18 Q. So, PS - below that it says "possible not 19 working or switched on". 20 <b>A. Correct.</b> 21 Q. What is the relevance of PS Stone and 22 Andery being included there? 23 <b>A. Because I believe that is who actually</b> 24 <b>make the inquiry, PS Stone, with Port Officer</b> 25 <b>Andery, and we established that it was either</b></p> <p style="text-align: center;">Page 18</p>	<p>1 Q. I am just asking you about any time that 2 day, at some point. 3 <b>A. I may have. I am not a hundred percent</b> 4 <b>sure.</b> 5 Q. You do not have a recollection of him 6 informing you? 7 <b>A. No.</b> 8 Q. You do not recall what Mr McGrail's 9 reaction to the AIS being switched on -- 10 <b>A. No.</b> 11 Q. - switched off, sorry. 12 <b>A. I remember during the meeting at 11:05</b> 13 <b>that it was asked if the chase had been plotted</b> 14 <b>or recorded as the coordinates for the</b> 15 <b>collision appeared to have been way out, and</b> 16 <b>I was unable to answer this because I still did</b> 17 <b>not have a full picture of everything. If I</b> 18 <b>made a mention only of it or not, I can't</b> 19 <b>recall. It is probable, but I would have</b> 20 <b>relayed that to the deputy, as things</b> 21 <b>progressed in a number of updates that we</b> 22 <b>were receiving all the time because there</b> 23 <b>were many occasions in which we had to,</b> 24 <b>you know, reel back and start getting</b> 25 <b>information and try to close things off. So, it</b></p> <p style="text-align: center;">Page 20</p>

5 (Pages 17 to 20)

<p>1 <b>was a very intense period of time during</b> 2 <b>those early hours.</b> 3 Q. When you say "the deputy", who are you 4 referring to? 5 <b>A. The deputy gold on that day would have</b> 6 <b>been Mr Richardson.</b> 7 Q. Then you asked the question just below 8 that entry: "Could Tarifa Traffic have 9 coordinates?" Was that a question you were 10 asking yourself or was that something that 11 someone had asked you? 12 <b>A. That is most probably a question that I</b> 13 <b>was asking myself and as a result of which, I</b> 14 <b>later tasked someone to do that, which was</b> 15 <b>Paul Chipolina, and he came back with that.</b> 16 Q. Did Tarifa Traffic have coordinates? 17 <b>A. I think the Guardia Civil, they work with</b> 18 <b>the Tarifa Traffic, and it is from one of their</b> 19 <b>databases in which they provided that. It is</b> 20 <b>called the CBITE(?) I do not know exactly</b> 21 <b>the - what it stands for.</b> 22 Q. I have just been asked if you could please 23 slow down because I think the transcriber is 24 having a bit of difficulty recording your 25 answers.</p> <p style="text-align: center;">Page 21</p>	<p>1 <b>A. No, because when they approached The</b> 2 <b>Sir John Chappel, it was already almost an</b> 3 <b>hour after the collision and they were on their</b> 4 <b>way back, so I believe that the approach and</b> 5 <b>the drawing of the vessels occurred in</b> 6 <b>British-Gibraltar territorial waters.</b> 7 THE CHAIRMAN: Sorry, can you just 8 repeat that? 9 MR SANTOS: Can you just repeat your - 10 what you said about -- 11 <b>A. I believe that when The Sir John Chappel</b> 12 <b>motor vessel and HMS - HM Seeker joined</b> 13 <b>together, or that happened in British-</b> 14 <b>Gibraltar territorial waters. It was inside</b> 15 <b>when they actually met.</b> 16 THE CHAIRMAN: The cutter, the Seeker 17 went to meet the launch? 18 <b>A. Yes.</b> 19 THE CHAIRMAN: And they met in the 20 Gibraltar waters. 21 <b>A. Yes.</b> 22 THE CHAIRMAN: Is that what you are 23 saying? 24 <b>A. Yes.</b> 25 MR SANTOS: Did you speak to Windmill</p> <p style="text-align: center;">Page 23</p>
<p>1 <b>A. Sorry.</b> 2 Q. So, I you can just speak slowly. Thank 3 you. Now, over the page 6956, there is an 4 entry at 08:35. There is another initial there: 5 NR. Who would NR be? 6 <b>A. Superintendent Nolan Romero.</b> 7 THE CHAIRMAN: Sorry, what is his name? 8 MR SANTOS: Superintendent Nolan 9 Romero. 10 THE CHAIRMAN: Yes. 11 MR SANTOS: This says, "Speak to 12 HMC..." Would HMC be Customs? 13 <b>A. Correct.</b> 14 Q. "Can they shed light into coordinates? 15 Where did they meet PMB?" Then there is a 16 reference to "AE", who presumably is Alex 17 Enriles? 18 <b>A. Correct.</b> 19 Q. "Contact Windy port Tarifa Traffic". Did 20 you speak to customs, or did superintended 21 Romero speak to customs? 22 <b>A. I think it was Nolan Romero who did</b> 23 <b>that.</b> 24 Q. Were they - were customs able to shed 25 any light on the coordinates?</p> <p style="text-align: center;">Page 22</p>	<p>1 Hill to request the coordinates, or was it Alex 2 Enriles? 3 <b>A. I believe to was Alex Enriles that I asked</b> 4 <b>to contact Windmill Hill.</b> 5 THE CHAIRMAN: You are speaking very 6 very fast. 7 (Inaudible due to over speaking) 8 THE CHAIRMAN: Can you adjust your 9 speed? 10 <b>A. Okay.</b> 11 THE CHAIRMAN: You are meant to be 12 giving information. It is no good if we 13 cannot hear what you are saying. 14 <b>A. Sorry. I believe Alex Enriles is the one</b> 15 <b>that contacted Windmill Hill.</b> 16 MR SANTOS: As far as the port is 17 concerned, who do you believe spoke to the 18 port? 19 <b>A. I believe from the notes, it would have</b> 20 <b>been Alex Enriles as well.</b> 21 Q. And the same for Tarifa Traffic? 22 <b>A. Correct.</b> 23 Q. Can we now turn to B1680, please? It 24 should appear on your screen. Yes. This is 25 an email sent by Superintendent Richardson</p> <p style="text-align: center;">Page 24</p>

6 (Pages 21 to 24)

<p>1 on 8 March 2020 at eleven past ten in the 2 morning, and it sets out a record of the gold 3 meeting that was convened, and lower down 4 it sets out the role designations, then the 5 actions. I just want to focus on 1681. At the 6 top of that page, there is a number 13 on the 7 action list is, "Need to determine location of 8 incident ASAP". Who is tasked with the role 9 of determining location? 10 <b>A. That would be me through the delegation 11 of my officers.</b> 12 Q. What priority was this action item, as far 13 as you recall, compared to other action 14 items? 15 <b>A. It was one of the main priorities.</b> 16 Q. Then, further down the page, there is a 17 record of a meeting -- of a gold command 18 meeting at 07:50 in the log. Just if we stop 19 the page there, towards the top of the page, 20 this is a log of interactions and meetings. At 21 07:50, there is a reference to the gold group 22 reconvened. Mr McGrail, superintendent 23 Richardson, yourself, Mr Romero, that is 24 probably Mr Tunbridge and Mr Enriles. Is 25 that correct?</p> <p style="text-align: center;">Page 25</p>	<p>1 <b>say "SIO update".</b> 2 Q. Yes. Thank you. So, it does look as 3 though at 07:50, you did inform gold, 4 including Mr McGrail, that AIS was either 5 switched off or faulty, from that record. 6 <b>A. Yes.</b> 7 Q. Are you saying you do not have a 8 recollection as to whether you actually did? 9 <b>A. No, but if it's there and it's been recorded, 10 it's a safe assumption that I would have sent 11 that.</b> 12 Q. Then, if we go back to your witness 13 statement at paragraph 36, please, A801. We 14 move forward to the 09:40 hours and this is 15 the - you have already mentioned this, but 16 you say, "At 09.40hrs, I received a report 17 from Insp Paul Chipolina who had obtained 18 the 19 co-ordinates through his contacts in the 20 Spanish Guardia Civil. These were 36'09 N5 21 12 W, approximately 6.54 miles east of Playa 22 Santa Barbara." We can see that in your day 23 book as well, C6957. Right at the top. I 24 think that the first two lines - I think you say, 25 "advice re coordinates", is that correct?</p> <p style="text-align: center;">Page 27</p>
<p>1 <b>A. "TT" would have been Tom Tunbridge, 2 yes.</b> 3 Q. That is expanded upon further down, 4 because there is a heading, "Gold update at 5 07:50", and the third bullet point is headed 6 "PIP update". What does PIP stand for? 7 <b>A. Post incident procedures.</b> 8 Q. The second entry there, again is "Need to 9 establish the location with accuracy". At this 10 point at 07:50, we have seen from your day 11 book the three reports that you have received. 12 Did you have any other information as to the 13 location of the collision? 14 <b>A. No. I don't believe so.</b> 15 Q. The final bullet point on that page, a little 16 bit lower down, says " Windy port have no 17 coordinates, AIS either switched off or 18 faulty", and is that a report which would have 19 been made by you in that gold update 20 meeting? 21 <b>A. I would believe - I believe, yes, I would 22 have. Yes.</b> 23 Q. Could that reflect the entry in your day 24 book? 25 <b>A. I'm not sure if it does reflect but it does</b></p> <p style="text-align: center;">Page 26</p>	<p>1 <b>A. Correct.</b> 2 Q. There are the coordinated. The "...6.54 3 east of Playa Santa Barbara", is that 4 something which would have come from the 5 Guardia Civil, or is that something you 6 would have worked out on the basis of the 7 coordinates? 8 <b>A. No, that is what I received from the 9 officer.</b> 10 Q. From Chipolona who was talking to the 11 Guardia Civil? 12 <b>A. Correct.</b> 13 THE CHAIRMAN: Did they give 14 measurements in miles? 15 <b>A. Yes, they were in miles.</b> 16 MR SANTOS: Do the Guardia Civil operate 17 with nautical miles? 18 <b>A. Well, I do not know with what they 19 operate, but that is what we were --</b> 20 THE CHAIRMAN: It is just slightly 21 unlikely for me, but perhaps they do work in 22 nautical miles. 23 <b>A. I am not too sure, sir.</b> 24 MR SANTOS: Now, can I ask you to just be 25 a precise as possible about what Detective</p> <p style="text-align: center;">Page 28</p>

7 (Pages 25 to 28)

<p>1 Inspector Chipolina told you? Those 2 coordinates, did they relate to the chase or 3 the collision? 4 <b>A. Collision.</b> 5 Q. What did he say about the coordinates 6 and the certainty of them? 7 <b>A. That they had to be confirmed and that</b> 8 <b>had to take place because the technical</b> 9 <b>officers had to extract it from the database</b> 10 <b>and once that --</b> 11 THE CHAIRMAN: You are speaking very 12 softly again. 13 <b>A. Sorry</b> 14 THE CHAIRMAN: Just ask the question 15 again. 16 MR SANTOS: Yes, can you just explain 17 what he said to you about the coordinates and 18 their certainty. 19 <b>A. That they had to confirm it and the</b> 20 <b>technical officers had to extract it from their</b> 21 <b>database, and once they have done that, they</b> 22 <b>would be able to confirm the coordinates as</b> 23 <b>of where the collision took place.</b> 24 Q. Did he express any indication as to how 25 likely they were to be accurate, those</p> <p style="text-align: center;">Page 29</p>	<p>1 <b>coordinates. The others weren't - of</b> 2 <b>Alcadesa and others.</b> 3 Q. Were these reports ultimately found -- 4 THE CHAIRMAN: Off Europa Point is 5 plainly completely wrong. 6 <b>A. The reference to the 3 miles off, if you</b> 7 <b>infer that 3 miles off is down to the south it</b> 8 <b>would be far off, but that is where the chase -</b> 9 <b>the crew said that they started the chase --</b> 10 <b>(10.37)</b> 11 THE CHAIRMAN: Exactly, and that 12 information came from the crew. 13 <b>A. So, that is what my concern was. If the</b> 14 <b>crew was saying that they were involved in</b> 15 <b>a chase 3 miles off and then we had these</b> 16 <b>co-ordinates, they were way off, and that's</b> 17 <b>why, um, there was a discussion in that</b> 18 <b>meeting to see if it was a safe assumption</b> 19 <b>that from A to B part of the chase could have</b> 20 <b>occurred in our waters.</b> 21 THE CHAIRMAN: If they were telling the 22 truth. 23 <b>A. Correct.</b> 24 MR SANTOS: Were the reports, were the 25 co-ordinates, ultimately found to be correct?</p> <p style="text-align: center;">Page 31</p>
<p>1 coordinates? 2 <b>A. No, but from my experience, it would</b> 3 <b>have been very strongly likely.</b> 4 THE CHAIRMAN: Sorry, I could not catch 5 that. 6 <b>A. There would have been a strong</b> 7 <b>likelihood that it would have been the exact</b> 8 <b>coordinates.</b> 9 MR SANTOS: From his experience, it 10 would have been strongly likely that the 11 coordinates were accurate. (To the witness) 12 Are you saying in your own experience in 13 receiving coordinates from -- 14 <b>A. From receiving information from the</b> 15 <b>Guardia Civil. Whenever they say</b> 16 <b>something, it's usually right. The other thing</b> 17 <b>is trying to confirm that or getting them to</b> 18 <b>put anything on paper, that is another hurdle</b> 19 <b>in itself.</b> 20 Q. In your view, were these coordinates 21 more accurate than the initial report, or 22 reliable than the initial reports that you had 23 received earlier? 24 <b>A. The initial reports weren't giving exact</b> 25 <b>coordinates. This was giving some sort of</b></p> <p style="text-align: center;">Page 30</p>	<p>1 <b>A. Yes, I think they differed slightly with,</b> 2 <b>um, the Solis report and I think it was 12.5</b> 3 <b>west, but it's almost spot on.</b> 4 Q. When did you first receive information 5 that the co-ordinates of the collision were 6 formally confirmed? 7 <b>A. Formally confirmed? I believe it was on</b> 8 <b>25 March. Because although we got</b> 9 <b>a thermal imagery from Windmill Hill and</b> 10 <b>that showed a camera at a long distance, part</b> 11 <b>of the chase and actually the collision, it</b> 12 <b>didn't provide any co-ordinates. The</b> 13 <b>co-ordinates and the tracking was extracted</b> 14 <b>by Captain Richard Meikle when he did his</b> 15 <b>examination of the suspect vessel's Garmin</b> 16 <b>device, which was both a chart plotter and</b> 17 <b>radar.</b> 18 <b>And I would also like to make reference on</b> 19 <b>the 9th because it does fit in here. On the 9th</b> 20 <b>there was an initial examination where we</b> 21 <b>recorded the vessels and during those</b> 22 <b>videoing hours, um, the suspect radar was</b> 23 <b>switched on and there was an image popping</b> 24 <b>up and it gave a time and a co-ordinate.</b> 25 <b>Now, we couldn't interpret that either but that</b></p> <p style="text-align: center;">Page 32</p>

<p>1 was a strong indication that it could have 2 happened when it lost contact or power and 3 the Solis report actually makes reference to 4 that as well. So when he tracked the plotter, 5 all the co-ordinates from the plotter from the 6 suspect vessel, and also considering the 7 alarm distress photograph of the radar, that's 8 when he actually confirmed the exact 9 co-ordinates. But it was not until we 10 received the rapid replay from him and that 11 was on 25 March. 12 Q. Can I just focus on what you said about 9 13 March? Are you saying that on 9 March it 14 was visible, the co-ordinates were visible, on 15 the screen of the suspect vessel? 16 A. On the radar. 17 Q. On the radar, sorry, yes. 18 A. On the Garmin device and we took 19 a photograph of that. But again we could not 20 interpret that because it could have been that 21 it was switched off or ... at the point of the 22 impact. We weren't expert mariners and we 23 needed someone. And that's why we called 24 Richard Meikle in as well. 25 Q. Can we look at B1715, please? Is this</p> <p style="text-align: center;">Page 33</p>	<p>1 or something like that. 2 Q. As far as you are aware, was this 3 information reported to Mr McGrail or to 4 Superintendent Richardson? 5 A. This would have been on the 10th 6 onwards. 7 Q. Can we look at C6959, please? Towards 8 the bottom of the entry for 9 March there is 9 a reference to PMB, a few initials, and then 10 data extraction. What is that a reference to, 11 data extraction? 12 A. That could have been an attempt to 13 extract the data. Um, because I'm looking 14 here, it says PMB, which is a police 15 motorboat. I've got a number of initials here, 16 but I've also got, um, officers here and I 17 believe they are scenes of crimes officers as 18 well. 19 Q. Can we now go, so we are going to have 20 to rewind a little bit, but it is in your witness 21 statement at paragraph 37. You say: 22 "I then had the co-ordinates plotted on a map 23 and subsequently made my way to the COP 24 suite." 25 How were the co-ordinates plotted on a map?</p> <p style="text-align: center;">Page 35</p>
<p>1 the -- 2 A. That's what I am referring to. 3 Q. Those co-ordinates, am I right in saying 4 that those co-ordinates more or less tally with 5 the co-ordinates that the Guardia Civil 6 provided? 7 A. Yes, as I have said, I think this was a bit 8 more accurate in which it says 12.511, 36, 9 9.953, it is more accurate. 10 THE CHAIRMAN: Sorry, what is that? 11 A. Sorry? 12 THE CHAIRMAN: What is that image? 13 Where does it come from? 14 A. That imagery is from the suspect vessel 15 Garmin device. 16 MR SANTOS: So a GPS tracker on the 17 suspect vessel. 18 A. It had a dual function apparently. It was 19 both a GPS chart plotter and also radar. 20 Q. Is there any reference to this information 21 in your daybook? 22 A. Um, no, but I think I made a reference, 23 because this happened after I had left duty. 24 But I remember there's an entry, I think, that 25 the examination is going to be taking place,</p> <p style="text-align: center;">Page 34</p>	<p>1 A. Well, I had difficulty, that's why I 2 actually, um, had a meeting with a number of 3 officers at 10.10, as you can see from my 4 daybook, about the co-ordinates and what I 5 wanted them is plotted. Um, and eventually 6 we found someone who could plot them and 7 made a number of copies and one of those 8 were the ones that I took up to the brief. 9 Q. So if you recall, who plotted the 10 co-ordinates on the map? 11 A. I'm not entirely sure, but I think there is 12 a strong probability it could have been Roy 13 Perez, but I'm not 100 per cent, because he 14 had maritime sort of experience. 15 Q. And when we say plotted on a map, do 16 you mean on a program on a screen or do 17 you mean on a physical map on the -- 18 A. No, no. It was in the screen. So he must 19 have got the map within the screen and then 20 plotted it then and then printed it out. 21 Q. If we go to C6957, back to C6957, there 22 at 10.10 there is a reference to a brief about 23 co-ordinates. Is that the briefing that you are 24 talking -- 25 A. Yes, so I wanted that and I wanted to</p> <p style="text-align: center;">Page 36</p>

1 **confirm another thing, if we had anything**  
 2 **else or not, um, the issue about the 3 miles of**  
 3 **Europa Point, I wanted to get as much**  
 4 **information as I could to properly brief the**  
 5 **Commissioner.**  
 6 Q. Then the next entry at 11.05 says:  
 7 "Printout co-ordinates." And then: "COP,  
 8 Superintendent Paul Richardson and the  
 9 Attorney General." Can you explain what  
 10 that records, that entry at 11.05? I mean, it  
 11 may be obvious from that, but in your own  
 12 words, can you explain what that is  
 13 recording?  
 14 **A. Yes. Um, at 11.05 I made my way to the**  
 15 **Commissioner's suite. I remember entering.**  
 16 **Um, Mr McGrail was standing in the middle**  
 17 **of the room. He was with his phone.**  
 18 **Assumption would be that he was texting or**  
 19 **something. And sat on the conference table**  
 20 **was Mr Llamas, the AG. And to his left was**  
 21 **Paul Richardson. And that's when I**  
 22 **produced the plotted map and I showed them**  
 23 **the co-ordinates. And that's when we went**  
 24 **over the issue. Um, I remember a discussion**  
 25 **took place about, um, if the chase has been**

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1 **plotted or not. I was unable to answer it**  
 2 **because it was still work in process and I**  
 3 **didn't have everything available to me. But**  
 4 **that, considering that the initial report was,**  
 5 **from the PMB was, that they had been in**  
 6 **a chase 3 miles off Europa Point and my**  
 7 **inference was to the south, and the**  
 8 **co-ordinates were way up north, that it was**  
 9 **a safe assumption that the chase or part of the**  
 10 **chase could have occurred within British**  
 11 **Gibraltar Territorial Waters.**  
 12 Q. Did you hand copies of the map, the  
 13 plotted co-ordinates, to the Commissioner of  
 14 Applies, to Richardson, to --  
 15 **A. I showed them and they took possession**  
 16 **of it. Um, I remember the AG holding it and**  
 17 **Mr Richardson as well. I'm not too sure if**  
 18 **the Commissioner held it. But there was**  
 19 **a discussion and I have been thinking about**  
 20 **this since then, but I think I may have left,**  
 21 **and it would be, you know, highly probable**  
 22 **that I would have left a copy of that map**  
 23 **there, the map that I was showing them.**  
 24 Q. Can we just go to B1431, please? This is  
 25 a set of communications between

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1 Mr McGrail and the Chief Minister. And if  
 2 we look at the entry at 09.49, which is on the  
 3 following page, it is the second from the top,  
 4 and it is at 09.49 in the morning and  
 5 Mr McGrail says:  
 6 "CM, the information suggests that the  
 7 collision took place outside BGTW,  
 8 approximately 6 nautical miles east off the  
 9 runway Santa Barbara Beach."  
 10 That message was at 09.49, which was prior  
 11 to your briefing at 10.10. So it looks from  
 12 this that you may have told, or you must have  
 13 told, Mr McGrail prior to handing those  
 14 plotted co-ordinates and the co-ordinates you  
 15 had received from the Guardia Civil. Is that  
 16 correct?  
 17 **A. If I did relay that, which is it probably**  
 18 **would have been to the deputy, Paul**  
 19 **Richardson, and then maybe he --**  
 20 Q. He passed it on.  
 21 **A. -- passed it up.**  
 22 Q. Just focusing on what Mr McGrail  
 23 reported to the Chief Minister, does that  
 24 accurately reflect what you informed,  
 25 whether you informed that the collision took

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1 place outside the BGTW approximately 6  
 2 nautical miles east off the runway or Santa  
 3 Barbara Beach?  
 4 **A. Considering that we still hadn't got**  
 5 **confirmation I'd say that is, yes, accurate,**  
 6 **yes.**  
 7 Q. When you had reported the co-ordinates  
 8 to Mr McGrail, had you referred to the  
 9 runway?  
 10 **A. The runway? Um, no, I don't think so.**  
 11 Q. What did you tell Mr McGrail and/or  
 12 Superintendent Richardson about the status  
 13 of the information about the co-ordinates?  
 14 **A. That they had to be confirmed.**  
 15 Q. If we go back to your witness statement  
 16 at paragraph 38, this is where you deal with  
 17 the briefing. We have already looked at the  
 18 end of this paragraph previously, but just to  
 19 focus on the beginning, you say:  
 20 "At 11.05hrs, I briefed COP, Detective  
 21 Superintendent Paul Richardson and The  
 22 Attorney General, Mr Llamas who was also  
 23 there, concerning the suspected exact  
 24 co-ordinates. I remember a discussion taking  
 25 place and being asked if the chase had been

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<p>1 plotted/ recorded as the coordinates were 2 well out of BGTW, I was unable to answer 3 this." 4 Superintendent Richardson's note does not 5 record you being at the briefing. Are you 6 sure that you attended that briefing? 7 <b>A. I'm the one that gave the briefing. Yes.</b> 8 Q. Just for your benefit, I will show you 9 1292, A1292. This is the entry at 10.25 10 hours and it says that the Commissioner, 11 Superintendent Richardson and Mr Llamas 12 were present. Were you there throughout the 13 time that the Attorney General was there or 14 could you have come in and left? 15 <b>A. I was not at that 10.25 meeting.</b> 16 Q. So you arrived slightly later on? 17 <b>A. At 11.05.</b> 18 Q. At 11.05. Can we look at B2789, please? 19 (Pause). I do not know if we can turn this 20 around. (Pause). Yes. Is this a copy of the 21 printout of the co-ordinates that you referred 22 to on the day? 23 <b>A. Yes.</b> 24 Q. Are you able to provide the Inquiry with 25 a better copy of this map?</p> <p style="text-align: center;">Page 41</p>	<p>1 from the top to the bottom, I think where the 2 cursor is at the moment, is that the coast? 3 <b>A. Correct.</b> 4 Q. The Spanish coast. You state in your 5 witness statement at 38 that your briefing 6 was concerning the suspected exact 7 co-ordinates. Why do you say suspected 8 exact co-ordinates? 9 <b>A. Because we still didn't have them 10 confirmed. It was provided to us, but they 11 said that they needed to confirm it through 12 their technical staff extraction methods, or 13 whatever, the Guardia Civil. So it was 14 provided with that sort of, on that basis, that 15 it had to be confirmed.</b> 16 Q. And when you briefed as to these 17 co-ordinates, you say that you showed them 18 the map. Did you also refer to the 19 co-ordinates by number? 20 <b>A. Um, I may have done so, but ... I may 21 have done so.</b> 22 Q. Would you have referred to the 6 nautical 23 miles off Santa Barbara Beach? 24 <b>A. I would have said that the co-ordinates, 25 which I had already passed, had been plotted</b></p> <p style="text-align: center;">Page 43</p>
<p>1 <b>A. I think that the original was the one I may 2 have left behind. So this is a copy of the 3 copy that was within the files and which are 4 tendered.</b> 5 Q. The original version of this document, is 6 it easier to read than what we have here? Are 7 you able to provide us with whatever copy 8 you have? 9 <b>A. No, it was this one. It's the same.</b> 10 Q. Is it a printout or is it -- 11 <b>A. Yes, it's a copy.</b> 12 THE CHAIRMAN: The rectangular, that is 13 the limit of British Gibraltar Territorial 14 Waters. 15 <b>A. Correct.</b> 16 THE CHAIRMAN: Yes. So what that is 17 showing is, and that is 6 miles from the 18 beach, but it is considerably north of 19 Gibraltar waters. 20 <b>A. Yes.</b> 21 THE CHAIRMAN: This is the point of the 22 collision as you understood it. 23 <b>A. Yes.</b> 24 THE CHAIRMAN: Yes. 25 MR SANTOS: And the thin line coming</p> <p style="text-align: center;">Page 42</p>	<p>1 <b>and I showed them the map.</b> 2 Q. Would you have referred to the 6 nautical 3 miles? 4 <b>A. On 11.05, I may have done. So, I'm not 5 100 per cent sure.</b> 6 Q. Was the Attorney General informed that 7 these co-ordinates were in Spanish waters? 8 <b>A. Yes, it is at plain sight if you see the map.</b> 9 Q. Do you recall how he reacted to being 10 informed of this? 11 <b>A. No, obviously everyone was concerned 12 about it.</b> 13 Q. Can we go to A251, please? This is the 14 Interim Governor Mr Pyle's evidence at 25.3. 15 And he says: 16 "Whilst walking my dog past New Mole 17 House at around midday on the 8th March I 18 decided to call in and asked to see Mr 19 McGrail. He was there and agreed to see me. 20 Given the possibility of a diplomatic and 21 political situation with Spain about this 22 incident, which (being external affairs) 23 would be the responsibility of the Governor 24 and HMGOG [Her Majesty's Government of 25 Gibraltar], my primary concern was to</p> <p style="text-align: center;">Page 44</p>

11 (Pages 41 to 44)

<p>1 establish the location of the incident, and 2 whether it had occurred in Spanish territorial 3 waters. I therefore asked Mr McGrail about 4 the location and whether it was inside or 5 outside BGTW. He replied with a slightly 6 flippant waving of his hands, 'Could be in, 7 and could be out, it's difficult to tell at 8 night'. 9 Were you present when the Governor 10 attended New Mole House? 11 <b>A. Um, I saw Mr Pyle on one day, but, um,</b> 12 <b>it was a very insignificant, quick update that I</b> 13 <b>had to give the Commissioner and there was</b> 14 <b>no speaking about BGTW or anything like</b> 15 <b>that. So, I don't know if I was there when</b> 16 <b>that happened. But I can't remember a dog or</b> 17 <b>anything like that.</b> 18 Q. The dog is not very prominent in this 19 Inquiry. Just to clarify then, you were not 20 present with Mr Pyle when there was any 21 discussion of the location of the collision. 22 <b>A. I don't think so. As I've said, it was</b> 23 <b>a very quick update that I provided and I</b> 24 <b>can't remember what date because I have no</b> 25 <b>record of it. I gave it to Mr McGrail. He</b></p> <p style="text-align: center;">Page 45</p>	<p>1 Q. Then after 8 March were you involved in 2 any further briefings with the Attorney 3 General? In relation to the incident at sea 4 obviously. 5 <b>A. I don't think I was.</b> 6 Q. What about Mr Pyle? 7 <b>A. No. I only saw Mr Pyle once in the</b> 8 <b>office of the Commissioner and that was it.</b> 9 <b>It was a quick, less than a minute, in which I</b> 10 <b>had a discussion or a brief, an update, to the</b> 11 <b>Commissioner and then I left. That was it. I</b> 12 <b>only see Mr Pyle.</b> 13 Q. Did Mr McGrail discuss with you the 14 communications he was having with 15 Mr Pyle? 16 <b>A. No.</b> 17 Q. If we look, go over the page here, to 18 C6958, there is an entry for 2.15 and again 19 the heading, the first bullet point we need to 20 establish exact location. Again, would that 21 have been something that you had said? 22 <b>A. That 14.15, and it has two initials, John</b> 23 <b>Perez and Mark Garratt. Those would have</b> 24 <b>been there, those present, and those would</b> 25 <b>have been the taskings and --</b></p> <p style="text-align: center;">Page 47</p>
<p>1 <b>introduced me to Mr Pyle and I left very</b> 2 <b>shortly after. It must have taken, maybe I</b> 3 <b>was there for under a minute. I can't recall,</b> 4 <b>um, any conversation about the incident.</b> 5 Q. When you say, it seems implied from 6 what you have said, but just to clarify, the 7 update that you were giving Mr McGrail, did 8 it relate to location or something different? 9 <b>A. I can't really remember.</b> 10 Q. Can we go to C6957, which is back in 11 your daybook, please? This is, if we look 12 towards the bottom of that, if you just keep it 13 there, sorry. Now it is at the top of the page. 14 The entry at midday, there is a reference to 15 debrief, I think. 16 <b>A. I can only see the 10.50.</b> 17 Q. Sorry. 18 <b>A. Sorry, there, 12, debrief, yes.</b> 19 Q. Yes. What does that report? 20 <b>A. That would be a debrief I would have had</b> 21 <b>with someone coming in and going over</b> 22 <b>something.</b> 23 Q. Would that have been with the 24 Commissioner of Police or? 25 <b>A. Um, I can't really say from those notes.</b></p> <p style="text-align: center;">Page 46</p>	<p>1 Q. So that would have been the tasking by 2 you: "We need to establish exact location." 3 <b>A. Yes.</b> 4 Q. Were you in doubt about the general 5 location of the collision at the time? 6 <b>A. I suspected that it was going to be more</b> 7 <b>or less where the Guardia Civil had initially</b> 8 <b>indicated, the collision. The chase I was still</b> 9 <b>not unsure.</b> 10 Q. And then over the page, sorry, two pages, 11 C960. If we can go to an entry at 10.20. 12 <b>A. What day is that, sir?</b> 13 Q. This is 10 March. 14 <b>A. 10 March.</b> 15 Q. I can show you actually, I can show you 16 the previous page, 10 March 2020. And then 17 over the page -- 18 <b>A. Yes.</b> 19 Q. -- and at 10.20 there is an entry Phil 20 Mandleberg. He works for the Port 21 Authority? 22 <b>A. He works for the port. He is a port</b> 23 <b>officer.</b> 24 Q. And then there is a reference to: "AIS, 25 4.47 turned on."</p> <p style="text-align: center;">Page 48</p>

12 (Pages 45 to 48)

<p>1 <b>A. Correct.</b></p> <p>2 Q. "6.364 kilometres off BGTW." Which</p> <p>3 vessel's AIS was that?</p> <p>4 <b>A. That was Sir John Chapple's AIS. It was</b></p> <p>5 <b>switched on, um, at 4.47, just shortly after</b></p> <p>6 <b>meeting up with HMC Seeker.</b></p> <p>7 THE CHAIRMAN: When they were back in</p> <p>8 Gibraltar waters?</p> <p>9 <b>A. I believe they were already back in, yes,</b></p> <p>10 <b>correct.</b></p> <p>11 MR SANTOS: It says there: "6.364</p> <p>12 kilometres off BGTW." So --</p> <p>13 <b>A. If I remember correctly, I provided the</b></p> <p>14 <b>co-ordinates that we had to them and he</b></p> <p>15 <b>made a reference that it was about 6.34</b></p> <p>16 <b>kilometres.</b></p> <p>17 Q. You say that the AIS was turned on at</p> <p>18 4.47. Did you have any information as to</p> <p>19 when the AIS was last on before then?</p> <p>20 <b>A. Before then?</b></p> <p>21 Q. Yes.</p> <p>22 <b>A. No, but I don't believe that they were</b></p> <p>23 <b>deployed ... they deployed on the night with</b></p> <p>24 <b>it on. But I don't know how far back it could</b></p> <p>25 <b>have gone. I can't remember that.</b></p> <p style="text-align: center;">Page 49</p>	<p>1 <b>A. Yes, I would imagine.</b></p> <p>2 Q. And you state, the first bullet point under</p> <p>3 that:</p> <p>4 "Policy decision. Finish examination of</p> <p>5 vessel but not to remove items or extract</p> <p>6 GPS radar equipment. Leave for</p> <p>7 investigation team to decide."</p> <p>8 Why was the decision made not to extract</p> <p>9 that information, given the need to determine</p> <p>10 location of the chase and collision?</p> <p>11 <b>A. I believe it must have been because the</b></p> <p>12 <b>moment that an external authority had</b></p> <p>13 <b>already been identified and was in the</b></p> <p>14 <b>process of handing over, we were pretty</b></p> <p>15 <b>much trying to capture and seize everything</b></p> <p>16 <b>and prepare a proper handing over for them</b></p> <p>17 <b>to come. We didn't want to take further</b></p> <p>18 <b>decisions that could have run against maybe</b></p> <p>19 <b>what the external authority would or would</b></p> <p>20 <b>not have wanted.</b></p> <p>21 Q. And then you say further down, another</p> <p>22 bullet point: "Get port co-ordinates in one A4</p> <p>23 or A3 printed." When you refer to port</p> <p>24 co-ordinates, were those the same</p> <p>25 co-ordinates you had received from the</p> <p style="text-align: center;">Page 51</p>
<p>1 Q. Just at the top of the page it says: "AIS</p> <p>2 last ten days."</p> <p>3 <b>A. Where is that, sorry?</b></p> <p>4 Q. Just at the top of the page. Sorry, if we</p> <p>5 can go up. "AIS last ten days." Is that</p> <p>6 something that --</p> <p>7 <b>A. That is something that we would have</b></p> <p>8 <b>been working on. Let us see the last ten</b></p> <p>9 <b>days, where they were or weren't switched</b></p> <p>10 <b>on.</b></p> <p>11 Q. And do you recall what was found for</p> <p>12 those last preceding ten days?</p> <p>13 <b>A. No.</b></p> <p>14 Q. The information that you had from</p> <p>15 Mr Mandleberg, did you pass that on to</p> <p>16 Mr McGrail?</p> <p>17 <b>A. Yes, well, it would have been passed on,</b></p> <p>18 <b>I would imagine, by Paul Richardson because</b></p> <p>19 <b>I remember going with Paul Richardson to</b></p> <p>20 <b>the port.</b></p> <p>21 Q. 6961, there is an entry at 3 o'clock. And</p> <p>22 it refers to the Commissioner of Police,</p> <p>23 Nolan Romero, Paul Richardson, John Field,</p> <p>24 and later Sean Perera and Roy Perez,</p> <p>25 presumably.</p> <p style="text-align: center;">Page 50</p>	<p>1 Guardia Civil or different ones?</p> <p>2 <b>A. It would have been those co-ordinates, I</b></p> <p>3 <b>suspect.</b></p> <p>4 Q. Then further down there is a debrief at</p> <p>5 6.30 and the final entry says:</p> <p>6 "Mobiles, how many have we got? Whose</p> <p>7 are they? [I think perhaps Nordin's</p> <p>8 comments.] Had sent co-ordinates. We have</p> <p>9 his."</p> <p>10 Can you just explain what is meant there?</p> <p>11 <b>A. Yes. Nordin said, um, on interview or</b></p> <p>12 <b>outside of interview that he had sent his boss,</b></p> <p>13 <b>um, the co-ordinates and a brief of what had</b></p> <p>14 <b>happened. Um, but it was in his phone and</b></p> <p>15 <b>he hadn't given us the access and we wanted</b></p> <p>16 <b>to see if that was the case or not.</b></p> <p>17 Q. Were you able to establish this?</p> <p>18 <b>A. I believe that when the Met team came</b></p> <p>19 <b>over they did try to extract it, but it hadn't</b></p> <p>20 <b>happened, if I remember correctly. But that</b></p> <p>21 <b>is not something I was involved in at that</b></p> <p>22 <b>time because the moment that the Met police</b></p> <p>23 <b>came and took over, as far as</b></p> <p>24 <b>decision-making processes and, um,</b></p> <p>25 <b>delegations of tasks, that was not mine any</b></p> <p style="text-align: center;">Page 52</p>

<p>1 <b>more. I was like the single point of contact</b>                  2 <b>and I was simply handing over material to</b>                  3 <b>them. If there was ever a lead that I</b>                  4 <b>identified I would inform them, maybe they</b>                  5 <b>told me to carry it on myself and then I</b>                  6 <b>would report back to them, or, considering</b>                  7 <b>that most of the time they were out of</b>                  8 <b>jurisdiction and they had an inquiry they</b>                  9 <b>were tasking, then I would undertake that.</b>                  10 <b>But those, um, would have most probably</b>                  11 <b>been extracted or, you know, the suspects, I</b>                  12 <b>did not deal with the suspects as such. The</b>                  13 <b>Met police dealt with the part of the phones</b>                  14 <b>and ...</b>                  15 Q. If we can move forward to 6964, please,                  16 this is a new entry for 12 March. There is the                  17 top entry says: "Tests on co-ordinates."                  18 What does that refer to?                  19 <b>A. I believe we wanted to go out on the day</b>                  20 <b>and test the co-ordinates and see if we had</b>                  21 <b>radio cover. But it was something that we</b>                  22 <b>needed to seek the permission or the approval</b>                  23 <b>from the Spanish authorities and we were not</b>                  24 <b>given them.</b>                  25 Q. Then 6965, right at the bottom of that</p> <p style="text-align: center;">Page 53</p>	<p>1 collision had taken place in Spanish waters?                  2 <b>A. Yes.</b>                  3 Q. Can we just go to B100, please? This is                  4 a transcript of messages on a WhatsApp                  5 maritime incident group which included the                  6 Chief Minister, the Chairman of the GPA,                  7 Mr Carreras from the GPA, the Chief                  8 Secretary and Mr McGrail. And the entry                  9 towards the bottom of this page, 12                  10 March 2020 at 4.13, is an update from                  11 Mr McGrail: "An update for your info." And                  12 then the final entry on that page says, if you                  13 could go a little bit further down, yes:                  14 "In terms of the investigation proper the                  15 evidence points at the pursuit and collision                  16 occurring outside the BGTW, not the best                  17 news we wanted to hear."                  18 Do you believe that that update, which is at                  19 4.13 on the same day, on 12 March, was                  20 based on the thermal recording information?                  21 <b>A. That could make a reference to the</b>                  22 <b>thermal imagery. But again, it's what we</b>                  23 <b>have always said, that we had a strong</b>                  24 <b>indication of where the collision had taken</b>                  25 <b>place, but the chase, considering that it was</b></p> <p style="text-align: center;">Page 55</p>
<p>1 page, this is an entry at 2.20: "Briefed                  2 Commissioner of Police re thermal                  3 recording."                  4 <b>A. Sorry, is that 12 March did we say?</b>                  5 Q. Yes, I believe so.                  6 <b>A. Yes. We managed to seize the CCTV</b>                  7 <b>from one of the Windmill Hill's cameras. It</b>                  8 <b>was one that was positioned on land and</b>                  9 <b>looked out at sea and it actually captured,</b>                  10 <b>even it was dark, it captured part of the chase</b>                  11 <b>and the actual collision. However, it could</b>                  12 <b>not provide any co-ordinates.</b>                  13 Q. And I think it has been said previously                  14 that it was apparent from that recording,                  15 given the position of ships perhaps around                  16 there, that it had occurred in Spanish waters,                  17 although you did not have the co-ordinates.                  18 <b>A. We actually asked the Port Authority to</b>                  19 <b>see if they could make use of that thermal</b>                  20 <b>imagery. I try and triangulate with the</b>                  21 <b>vessels that were within the area, and to some</b>                  22 <b>extent they identified the vessels in the area,</b>                  23 <b>but they could still not give us co-ordinates.</b>                  24 Q. But was it apparent at least from that that                  25 in fact that the video suggested that the</p> <p style="text-align: center;">Page 54</p>	<p>1 <b>reported that it had started 3 miles off Europa</b>                  2 <b>Point, I still didn't have complete clarity on it</b>                  3 <b>and the thermal imagery just sees the impact</b>                  4 <b>at a distance and that is where the collision,</b>                  5 <b>but we don't know how they got from A to B.</b>                  6 <b>So I would still say that at that point the</b>                  7 <b>pursuit was still rather unknown.</b>                  8 Q. Do you know of any other evidence that                  9 the confirmation as to the pursuit occurring                  10 outside BGTW could have been based on at                  11 that stage?                  12 <b>A. That the pursuit occurring outside?</b>                  13 <b>Where part of the pursuit was captured</b>                  14 <b>within the thermal imagery and that was</b>                  15 <b>outside.</b>                  16 Q. Outside, so you are saying that actually                  17 that could be a reference to part of the pursuit                  18 rather than the entire pursuit.                  19 <b>A. Yes, because we've got to consider that</b>                  20 <b>we were told that the chase had started</b>                  21 <b>3 miles off Europa Point.</b>                  22 Q. Yes.                  23 <b>A. But later it was established, when Captain</b>                  24 <b>Meikle provided the rapid replay, it was clear</b>                  25 <b>that the interception, the pursuit and the</b></p> <p style="text-align: center;">Page 56</p>

<p>1 <b>collision had all taken place in Spanish</b></p> <p>2 <b>waters.</b></p> <p>3 Q. And that you said, I believe, earlier was</p> <p>4 around 25 March.</p> <p>5 <b>A. 25 March, correct.</b></p> <p>6 Q. If we go back to your witness statement</p> <p>7 at paragraph 41 now, please, A802, you say:</p> <p>8 "During the next days, we relentlessly</p> <p>9 pursued a large number of enquiries trying to</p> <p>10 establish facts. The exact location of the</p> <p>11 collision, AIS data from the vessels the</p> <p>12 Post-mortem arrangements, the officer's</p> <p>13 welfare, liaising with the family of the</p> <p>14 deceased and Maritime Collision expert were</p> <p>15 at the forefront. There were many briefings,</p> <p>16 most of them being conducted by myself and</p> <p>17 addressing investigating officers."</p> <p>18 Speaking generally, how complex would you</p> <p>19 describe the investigation as being?</p> <p>20 <b>A. It was complex because there were</b></p> <p>21 <b>a number of issues, jurisdictional issues, then</b></p> <p>22 <b>we had, um, the accounts of the officers,</b></p> <p>23 <b>which was at the (inaudible) process so we</b></p> <p>24 <b>were limited as to what we were knowing at</b></p> <p>25 <b>that precise time, and it was all very</b></p> <p style="text-align: center;">Page 57</p>	<p>1 instructions/ deployment. Management's</p> <p>2 view was that under Section 5 [3] Police Act,</p> <p>3 they were. There were occasions when the</p> <p>4 GPF Chairman wrote to management and</p> <p>5 was out of order and disrespectful."</p> <p>6 How long were you a member of the GPF</p> <p>7 board?</p> <p>8 <b>A. I was there for, I think, just over a year,</b></p> <p>9 <b>which was when I was promoted, then I had</b></p> <p>10 <b>to leave it because I was no longer eligible</b></p> <p>11 <b>for the GPF.</b></p> <p>12 Q. Because you had reached the position of</p> <p>13 Inspector --</p> <p>14 <b>A. Superintendent.</b></p> <p>15 Q. Superintendent.</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Of course, because the GPF goes up to</p> <p>18 Inspector, correct?</p> <p>19 <b>A. Chief Inspector.</b></p> <p>20 Q. Chief Inspector.</p> <p>21 <b>A. They can have up to one Chief Inspector</b></p> <p>22 <b>within their ...</b></p> <p>23 Q. When were you promoted to</p> <p>24 Superintendent?</p> <p>25 <b>A. I think it was 21 August 2020, I think.</b></p> <p style="text-align: center;">Page 59</p>
<p>1 <b>dynamic. Things were moving even, I</b></p> <p>2 <b>remember, even issues with the</b></p> <p>3 <b>post-mortems, we had issues with the GHA,</b></p> <p>4 <b>and it was the Commissioner who had to</b></p> <p>5 <b>intervene and get the approval for that to</b></p> <p>6 <b>continue. So it was very dynamic. It was</b></p> <p>7 <b>intense. They were stressful days.</b></p> <p>8 <b>(11.12)</b></p> <p>9 Q. Can we look at paragraph 11 of your</p> <p>10 statement on A796, please. Just changing</p> <p>11 topic now to the Gibraltar Police Federation.</p> <p>12 You say there that you joined the GPF in</p> <p>13 May 2019 and you were a member of the</p> <p>14 board where you represented the Inspector</p> <p>15 and Chief Inspector ranks. You say:</p> <p>16 "There was always some tension between the</p> <p>17 GPF and Command and this was the case</p> <p>18 with Mr McGrail. In my opinion, the</p> <p>19 unhealthy tension arose after the appointment</p> <p>20 of GPF Chairman, Police Sergeant Maurice</p> <p>21 Morello and the Secretary, Police Constable</p> <p>22 Mr Leif Simpson. I believe the primary</p> <p>23 cause was that they both felt that they were</p> <p>24 completely divorced from the service and</p> <p>25 could not be subject to Police Discipline or</p> <p style="text-align: center;">Page 58</p>	<p>1 Q. In your time on the board was there</p> <p>2 always tension between the GPF and RGP</p> <p>3 senior management?</p> <p>4 <b>A. Almost all the time.</b></p> <p>5 Q. As far as you were aware, did the tension</p> <p>6 cease or reduce when Mr Ullger took over as</p> <p>7 Commissioner?</p> <p>8 <b>A. I thought it would, and in fact in the main</b></p> <p>9 <b>it did get better, but then there were</b></p> <p>10 <b>occasions when it reverted to what it was</b></p> <p>11 <b>before and it just continued.</b></p> <p>12 Q. Were you aware of the GPF making any</p> <p>13 complaints to the GPA, the Police Authority,</p> <p>14 about Mr McGrail?</p> <p>15 <b>A. No.</b></p> <p>16 Q. Were you aware of Mr Morello attending</p> <p>17 a GPA meeting to make a complaint about</p> <p>18 Mr McGrail?</p> <p>19 <b>A. No.</b></p> <p>20 Q. Finally, focusing on Mr McGrail's</p> <p>21 retirement, when did you first become aware</p> <p>22 of his retirement?</p> <p>23 <b>A. A few days before he announced it, I</b></p> <p>24 <b>think. But when the section 15 was triggered</b></p> <p>25 <b>I was already concerned with that already.</b></p> <p style="text-align: center;">Page 60</p>

15 (Pages 57 to 60)

<p>1 Q. How did you find out that he had retired?</p> <p>2 <b>A. I remember being called into the office</b></p> <p>3 <b>and he told me and one other - a few other</b></p> <p>4 <b>officers that he was departing.</b></p> <p>5 Q. Did he explain the reasons for his</p> <p>6 departure?</p> <p>7 <b>A. He didn't go much into it but it was an</b></p> <p>8 <b>emotional day for all - for most of us.</b></p> <p>9 Q. Why do you say you were concerned</p> <p>10 when the section 15 was triggered?</p> <p>11 <b>A. Because, you know, I have never</b></p> <p>12 <b>experienced a section 15 in which we had to</b></p> <p>13 <b>account for everything when I thought that</b></p> <p>14 <b>we were being very transparent and giving</b></p> <p>15 <b>everything that we had in relation to</b></p> <p>16 <b>Operation Kram, so when that got triggered</b></p> <p>17 <b>and, you know, we had to undertake all that</b></p> <p>18 <b>work, I had concerns that maybe his post was</b></p> <p>19 <b>being questioned.</b></p> <p>20 Q. Did you learn of or hear about any</p> <p>21 reasons why Mr McGrail retired early around</p> <p>22 the time?</p> <p>23 <b>A. No. Other than what came out through</b></p> <p>24 <b>the social media net, no. I was never</b></p> <p>25 <b>informed by management: he has left</b></p> <p style="text-align: center;">Page 61</p>	<p>1 MR WAGNER: Before the break, yes. I</p> <p>2 will try and avoid the disruption of bringing</p> <p>3 the lectern over. I am grateful.</p> <p>4 Cross-examination by MR WAGNER</p> <p>5 MR WAGNER: Good morning. I am just</p> <p>6 going to ask you a couple of questions. You</p> <p>7 mentioned your concern at the section 15 and</p> <p>8 you said you felt you were - "we", as in the</p> <p>9 RGP, were being very transparent and giving</p> <p>10 everything we had on Op Kram. I just want</p> <p>11 to ask you: did anybody ever say to you,</p> <p>12 whether it was Mr McGrail or anybody else,</p> <p>13 you should keep certain information from the</p> <p>14 Governor?</p> <p>15 <b>A. What do you mean keep --</b></p> <p>16 Q. Did anybody tell you: do not reveal</p> <p>17 certain information to the Governor, or</p> <p>18 anything to that effect?</p> <p>19 <b>A. That's now how we operate. We are</b></p> <p>20 <b>transparent.</b></p> <p>21 Q. Yes. So you have a sort of short</p> <p>22 memory, I think, of seeing the Governor at</p> <p>23 some point, that you went in and gave a short</p> <p>24 briefing to Mr McGrail ...</p> <p>25 <b>A. Yes.</b></p> <p style="text-align: center;">Page 63</p>
<p>1 <b>because A, B and C, or did we get any</b></p> <p>2 <b>notification, no.</b></p> <p>3 Q. I think you have touched upon it but how</p> <p>4 did you react to Mr McGrail's departure from</p> <p>5 the RGP?</p> <p>6 <b>A. It was emotional that day. I've known</b></p> <p>7 <b>him for a long time and to see a friend go in</b></p> <p>8 <b>the circumstances that he was going was not</b></p> <p>9 <b>nice.</b></p> <p>10 Q. Did Mr McGrail's early retirement have</p> <p>11 any impact on the morale of the police?</p> <p>12 <b>A. It did with the senior command at my</b></p> <p>13 <b>level. I mean, at that point of time I was the</b></p> <p>14 <b>Chief Inspector and everyone was concerned</b></p> <p>15 <b>and upset about it, yes, so it did. Now, if it</b></p> <p>16 <b>affected the lower ranks, once you're at a</b></p> <p>17 <b>certain level you feel (that/out?) touch with</b></p> <p>18 <b>the lower ranks, but at my rank we were</b></p> <p>19 <b>concerned, yes.</b></p> <p>20 MR SANTOS: Thank you, I have no further</p> <p>21 questions.</p> <p>22 MR WAGNER: Sir, I have a couple of</p> <p>23 questions arising, if I may. I am happy to do</p> <p>24 it after the break.</p> <p>25 THE CHAIRMAN: A couple of questions.</p> <p style="text-align: center;">Page 62</p>	<p>1 Q. ... whilst the Governor was there, is that</p> <p>2 right?</p> <p>3 <b>A. Correct.</b></p> <p>4 Q. So it was a briefing to Mr McGrail, it was</p> <p>5 not to the Governor.</p> <p>6 <b>A. No. Correct, yes.</b></p> <p>7 Q. Was it a briefing - if you remember this -</p> <p>8 was it a briefing you were already intending</p> <p>9 to go and give or had been asked to go and</p> <p>10 give, and the Governor just happened to be</p> <p>11 there?</p> <p>12 <b>A. No, I - in those days I would often pop in</b></p> <p>13 <b>and give him a quick update on something</b></p> <p>14 <b>that he had asked, maybe been asked from</b></p> <p>15 <b>me, and I just happened to go there and he</b></p> <p>16 <b>was there. I didn't make much of it.</b></p> <p>17 Q. Did not make much of it. But certainly</p> <p>18 nobody - you did not feel inhibited about</p> <p>19 what you could say in front of the Governor?</p> <p>20 <b>A. No, no, no.</b></p> <p>21 Q. The only other question was: there has</p> <p>22 been quite a few references to the incident,</p> <p>23 the chase, the collision. I am just asking</p> <p>24 from your perspective, when you were</p> <p>25 talking about the incident, what would you</p> <p style="text-align: center;">Page 64</p>

16 (Pages 61 to 64)

<p>1 have meant by that? Would it have been the 2 chase, the collision, the whole thing? 3 <b>A. When?</b> 4 Q. At any time. Would you have referred to 5 the incident? 6 <b>A. I would say the incident would capture all 7 of it.</b> 8 Q. Yes. 9 <b>A. The pursuit, the collision, everything.</b> 10 Q. Would it be right to say that in the mid- 11 morning of 8th, so the day of the incident - it 12 is the day that everything happened - the 13 working theory at the mid-morning briefing 14 was that part of the incident had happened in 15 British Gibraltar Territorial Waters. 16 <b>A. We were assuming that.</b> 17 Q. And part had happened out? 18 <b>A. Well, obviously, because if the collision 19 took place outside, it's natural to say that part 20 of it was outside, but we were working on the 21 safe assumption that, considering that we had 22 been told that the chase had started three 23 miles off Europa Point, it was a safe 24 assumption to say that part of it would have 25 happened inside.</b></p> <p style="text-align: center;">Page 65</p>	<p>1 <b>did not have clarity on the AIS. It was still 2 work in progress. So I wasn't going to say 3 one thing or the other.</b> 4 THE CHAIRMAN: You mean the 5 explanation for it not working was either it 6 had not been turned on or may have been 7 faulty. 8 <b>A. Yes, so ...</b> 9 MR WAGNER: Had you been told by 10 anybody at that stage that it had been turned 11 off? 12 <b>A. that it was not transmitting.</b> 13 Q. You just knew you did not have any 14 information from the AIS. 15 <b>A. That it had not been transmitting.</b> 16 Q. Which is why it was either - there were 17 two working theories: either it was off or it 18 had - sorry, either it was not working or it 19 had been switched off. 20 <b>A. It hadn't been switched on, yes.</b> 21 Q. Yes. Or it had not been switched on. If it 22 had not been switched on, would you have 23 known at that stage - did you have a working 24 theory as to why it might not have been 25 switched on?</p> <p style="text-align: center;">Page 67</p>
<p>1 Q. So as at mid-morning on 8th, the key 2 assumption was that part was in and part was 3 out. 4 <b>A. Yes.</b> 5 Q. Is that fair? 6 <b>A. Yes.</b> 7 THE CHAIRMAN: But based on what the 8 crew were saying. 9 <b>A. Pardon?</b> 10 THE CHAIRMAN: Based on what the crew 11 were saying. 12 <b>A. Yes, what had been reported to CAD.</b> 13 MR WAGNER: Did you have any reason at 14 that point to think the crew were not telling 15 the truth? 16 <b>A. No.</b> 17 Q. No. On the morning of the incident. 18 <b>A. No.</b> 19 Q. So from your perspective -- 20 THE CHAIRMAN: Did it strike you as 21 rather strange that they turned off their 22 navigation aids? 23 <b>A. We were working towards that that had 24 occurred three miles off, and it was a safe 25 assumption inside. The only thing is that we</b></p> <p style="text-align: center;">Page 66</p>	<p>1 <b>A. No.</b> 2 Q. No. So you would not have had any 3 information about whether it was deliberate 4 or accidental. 5 <b>A. In those initial hours of that investigation 6 there were many avenues into the 7 investigation and, no, I wouldn't have had 8 clarity on that.</b> 9 Q. So when you heard on the morning of 8th 10 that the crew had said that the chase started 11 three miles off Europa Point, that was not 12 information at that stage you had a reason to 13 doubt. 14 <b>A. I had no reason to doubt.</b> 15 Q. Did it come to be later that you had a 16 reason to doubt that information? 17 <b>A. Later we did doubt that, and it all proved 18 when Richard Meikle actually extracted the 19 tracks of the suspect vessel.</b> 20 Q. Was that on 23rd? 21 <b>A. That was provided to us on 25th.</b> 22 Q. 25th, yes. So it was quite a bit later that 23 you had reason to doubt -- 24 <b>A. That ...</b> 25 Q. ... the accounts.</p> <p style="text-align: center;">Page 68</p>

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<p>1 <b>A. That's when we established that it hadn't</b>  2 <b>taken place.</b>  3 Q. Yes. Had not taken place off Europa  4 Point?  5 <b>A. Correct. The interception, the pursuit</b>  6 <b>and the collision all took place outside</b>  7 <b>British Gibraltar Territorial Waters.</b>  8 MR WAGNER: Thank you. (Pause) Thank  9 you.  10 SIR PETER CARUANA: I can do it in less  11 than four minutes - I can do it in four  12 minutes.  13 Cross-examination by SIR PETER  14 CARUANA  15 SIR PETER CARUANA: Good morning,  16 Mr Field. Just fourth question where we left  17 off there, your last answer. Do you recall  18 seeing any evidence of communication  19 between the police boat on the morning,  20 radio communication or telephone  21 communication, with Central Police Station  22 or anybody else about engagement in British  23 Waters? In other words, was there a report  24 of a launch, a suspect boat operating in  25 British Waters?</p> <p style="text-align: center;">Page 69</p>	<p>1 sense in the RGP that there was a bullying  2 issue out there, however ill-defined or  3 unspecified it might have been? Or is this a  4 figment of the Police Federation's  5 imagination? Just give, in your own words.  6 <b>A. There may have existed bullying in the</b>  7 <b>past because I was personally bullied in the</b>  8 <b>past, but those days were gone a long time</b>  9 <b>ago. But there is an element of a conflicts</b>  10 <b>arising here and there with this new</b>  11 <b>generation, with this entitlement, and</b>  12 <b>obviously we're a disciplined body and things</b>  13 <b>have to be conducted in a certain way. The</b>  14 <b>new people coming up seem to steer away</b>  15 <b>from discipline, and it's every time that we</b>  16 <b>call them to order when things come out and,</b>  17 <b>yeah, you know, no matter how you say</b>  18 <b>things sometimes to an individual that they</b>  19 <b>will take it wrongly; if they don't want to</b>  20 <b>perform a certain function or something, no</b>  21 <b>matter how low your tone is, how</b>  22 <b>emotionally intelligent you are and you try to</b>  23 <b>portray yourself, they still won't accept it.</b>  24 Q. Okay. So plainly you think it was not  25 justified, but justified or not in your opinion,</p> <p style="text-align: center;">Page 71</p>
<p>1 <b>A. There were calls to and from with their</b>  2 <b>mobiles, with the RGP Marine Base mobile.</b>  3 Q. Do you recall to what effect those  4 communications were?  5 <b>A. No. Because we did ask the Spanish</b>  6 <b>authorities if they could provide us with</b>  7 <b>audios and recordings but we never got</b>  8 <b>anything back.</b>  9 Q. But there is nothing logged in Central  10 Police Station about having received a  11 communication from the boat by phone or by  12 radio: "We are initiating a chase in British  13 Waters."  14 <b>A. No. As far as I can recall, I received</b>  15 <b>information that they had not indicated that</b>  16 <b>they were out there carrying out a matrix</b>  17 <b>patrol and that they had not ensued a chase</b>  18 <b>either.</b>  19 Q. Exactly. Thank you. Moving on, in  20 relation to allegations of bullying, and I am  21 not concerned with whether it happened or  22 not or who was responsible, can you just give  23 the Chairman, give the Inquiry, a sense of  24 whether, regardless of what you thought of it,  25 whether it was justified or not, was there a</p> <p style="text-align: center;">Page 70</p>	<p>1 was there this issue out there, and did  2 management address it in any way?  3 <b>A. I think we've addressed it through a</b>  4 <b>number of policies internally.</b>  5 Q. If it was addressed, presumably it was  6 because it was thought it might exist.  7 <b>A. The perception among the lower ranks is</b>  8 <b>that there was, yes.</b>  9 Q. That is all I was trying to get to. The  10 issue exists out there, regardless of whether it  11 was justified or not, there was this perception  12 that it existed as an issue.  13 <b>A. Correct.</b>  14 Q. Okay. Just one final point. I wonder if  15 you could put up 801, Mr Triay, which is  16 your witness statement. So this is the  17 paragraph in which you deal with the briefing  18 at 11.05 on the morning of 8th, paragraph 38.  19 Just to give you the opportunity to  20 familiarise:  21 "At 11.05hrs, I briefed Commissioner of  22 Police, Detective Superintendent Paul  23 Richardson and The Attorney General, Mr  24 Llamas who was also there, concerning the  25 suspected exact co-ordinates. I remember a</p> <p style="text-align: center;">Page 72</p>

<p>1 discussion taking place and being asked if the 2 chase had been plotted/ recorded as the 3 coordinates were well out of BGTW, I was 4 unable to answer this. Considering that the 5 initial report," 6 etc, etc, and it goes over the page by a line or 7 two. That is the paragraph in your witness 8 statement in which you deal with that 9 briefing. Do you agree? 10 <b>A. Yes.</b> 11 Q. You agree that Mr Pyle is not listed by 12 you there as being present. 13 <b>A. He was not there.</b> 14 Q. He was not there. If I could just now 15 refer you to paragraph 64, which is your brief 16 allusion to meeting Mr Pyle, there you say: 17 "I also remember visiting the COP suite on 18 one occasion to see Mr McGrail and at the 19 time Mr Nicholas Pyle was there. He briefly 20 introduced me to him and shortly after I left. 21 Unfortunately, I have no record of the date as 22 at the time it was insignificant to me." 23 Two points I would like just to put to you, 24 Mr Field, if I may. As to the date, you are 25 not even clear that this was on 8th?</p> <p style="text-align: center;">Page 73</p>	<p>1 question ... 2 SIR PETER CARUANA: It is not the first 3 time it has been asked. So in paragraph 64, 4 this was your witness statement. If - you did 5 not recall then either presumably. Why did 6 you not put here anything about not 7 recalling? Surely if you had spoken to Mr 8 Pyle about coordinates you would have put 9 something there, you would not describe it as 10 a fleeting hello whilst I pop into the 11 Commissioner's office that you do here. 12 <b>A. As I've said, unfortunately I have no 13 record of a time and it was insignificant to 14 me. If I had maybe relayed or discussed the 15 information I would have been, I think, more 16 time there and I would have made a note on 17 it. But I don't, so I don't know what else to 18 say, I can't remember.</b> 19 Q. But at paragraph 38 in the same witness 20 statement -- 21 THE CHAIRMAN: I have got the point. 22 SIR PETER CARUANA: Yes. So that is 23 the answer that you want to leave, that you 24 do not recall whether you did or you did not. 25 Thank you.</p> <p style="text-align: center;">Page 75</p>
<p>1 <b>A. No, I am not clear.</b> 2 Q. It would appear that, given that the whole 3 issue was collisions, locations, information 4 availability, when you allude in paragraph 64 5 to your very brief encounter with Mr Pyle, is 6 it more or less likely in your view that you 7 would have mentioned something in this 8 witness statement if you had discussed 9 anything to do with location with Mr Pyle? 10 <b>A. I can't recall what was said. It was a brief 11 update which I notified the Commissioner 12 with. As I've said before, I must have been 13 there less than a minute and I do not think the 14 coordinates or anything like that were 15 mentioned.</b> 16 Q. Yes. It is because you now say that you 17 do not recall that I am standing here asking 18 you these questions. What do you mean by 19 cannot recall? Do you mean I may or I may 20 not have, or I have no recollection of doing 21 so and therefore I do not think I did? 22 <b>A. I can't recall, maybe I did, maybe I didn't, 23 but I'm telling you I can't recall so we're 24 playing with words here. I can't recall.</b> 25 THE CHAIRMAN: I think that is a lawyer's</p> <p style="text-align: center;">Page 74</p>	<p>1 MR SANTOS: One follow-up question. 2 THE CHAIRMAN: Yes. 3 MR SANTOS: It may be -- 4 THE CHAIRMAN: Hang on, there might 5 just be a supplementary point coming. There 6 is not. 7 Further questioned by MR SANTOS 8 MR SANTOS: Apologies. In your 9 experience, was it common for AIS to be 10 switched off? 11 <b>A. No, the instructions were that it had to be 12 switched on.</b> 13 THE CHAIRMAN: That is -- 14 MR SANTOS: Did you have any knowledge 15 as to whether it was switched on or off, as a 16 practice, as a matter of practice? 17 <b>A. I wouldn't have had governance on that.</b> 18 THE CHAIRMAN: Sorry, what did you 19 say? 20 <b>A. I wouldn't have had governance on the 21 marine section, and if they were or not being 22 turned on, the AIS.</b> 23 MR SANTOS: So you had no knowledge as 24 to whether in practice it was being switched 25 on or off, other than the procedures that were</p> <p style="text-align: center;">Page 76</p>

<p>1 in place.</p> <p>2 <b>A. But the instructions were clear, yes.</b></p> <p>3 Q. Were you aware of any circumstances</p> <p>4 where it was deemed appropriate for AIS to</p> <p>5 be switched off?</p> <p>6 <b>A. That would have been contrary to</b></p> <p>7 <b>instructions.</b></p> <p>8 MR SANTOS: Thank you. Nothing further.</p> <p>9 THE CHAIRMAN: Okay, thank you very</p> <p>10 much indeed. Suitable time to break?</p> <p>11 MR SANTOS: I think it is a very good time</p> <p>12 to pause, yes, for ten minutes, I think.</p> <p>13 THE CHAIRMAN: Okay.</p> <p>14 MR SANTOS: Thank you.</p> <p>15 (Adjourned for a short time)</p> <p>16 MR SANTOS: thank you, sir. Our next</p> <p>17 witness is Commissioner Richard Ullger.</p> <p>18 COMMISSIONER RICHARD ULLGER,</p> <p>19 sworn</p> <p>20 Examined by MR SANTOS</p> <p>21 MR SANTOS: Commissioner Ullger, can I</p> <p>22 just please ask that you open the file in front</p> <p>23 of you that should have your statements</p> <p>24 inside it. I cannot actually assist with which</p> <p>25 one it is.</p> <p style="text-align: center;">Page 77</p>	<p>1 Q. Roughly when did you take over?</p> <p>2 <b>A. I took over Acting Commissioner when</b></p> <p>3 <b>he departed, and then when I was</b></p> <p>4 <b>subsequently promoted in July 2020 by his</b></p> <p>5 <b>Excellency the Governor.</b></p> <p>6 Q. How long have you known Mr McGrail?</p> <p>7 <b>A. Since I joined the Service, which was in</b></p> <p>8 <b>1988, so it would be 36 years.</b></p> <p>9 Q. What was your relationship with Mr</p> <p>10 McGrail like when you were both police</p> <p>11 officers?</p> <p>12 <b>A. So there was a personal relationship and</b></p> <p>13 <b>there was a professional relationship.</b></p> <p>14 <b>Personally, both Ian and I were very, very</b></p> <p>15 <b>good friends, probably best friends, and we</b></p> <p>16 <b>were there for each other during difficult</b></p> <p>17 <b>times in our lives and during good times in</b></p> <p>18 <b>our lives. At a professional, he was four</b></p> <p>19 <b>years senior to what I was, so I was always</b></p> <p>20 <b>chasing him in regards of career progression.</b></p> <p>21 <b>We worked in different departments together</b></p> <p>22 <b>and we had a very good professional</b></p> <p>23 <b>relationship.</b></p> <p>24 Q. During the time that Mr McGrail was</p> <p>25 Commissioner of Police how would you</p> <p style="text-align: center;">Page 79</p>
<p>1 <b>A. Correct, yes.</b></p> <p>2 Q. Yes. You should have your first witness</p> <p>3 statement to the Inquiry, please.</p> <p>4 <b>A. Correct.</b></p> <p>5 Q. Can you please confirm that that is your</p> <p>6 first statement and that your signature is on</p> <p>7 the final page.</p> <p>8 <b>A. It is.</b></p> <p>9 Q. Do you confirm that the contents of that</p> <p>10 statement are true to the best of your</p> <p>11 knowledge, information and belief?</p> <p>12 <b>A. I do.</b></p> <p>13 Q. Can I now ask that you do the same for</p> <p>14 the second statement. Can you confirm that</p> <p>15 that is there as well and that is your</p> <p>16 signature.</p> <p>17 <b>A. I do.</b></p> <p>18 Q. Do you confirm that the contents of that</p> <p>19 witness statement are true to the best of your</p> <p>20 information, knowledge and belief?</p> <p>21 <b>A. I do.</b></p> <p>22 Q. Thank you. Mr Ullger, you took over the</p> <p>23 role of Commissioner of Police after Mr</p> <p>24 McGrail's departure, is that correct?</p> <p>25 <b>A. That is correct.</b></p> <p style="text-align: center;">Page 78</p>	<p>1 describe his relationship with the senior</p> <p>2 management team?</p> <p>3 <b>A. A very good working relationship.</b></p> <p>4 Q. How would you describe Mr McGrail's</p> <p>5 policing style?</p> <p>6 <b>A. In respect of policing style or leadership</b></p> <p>7 <b>style? I think that's probably two --</b></p> <p>8 Q. Perhaps let us deal with both.</p> <p>9 <b>A. So policing style, you know, police</b></p> <p>10 <b>officers have to work and abide to our code</b></p> <p>11 <b>of ethics, there are ethical standards to abide</b></p> <p>12 <b>by and abide by the principles of policing. A</b></p> <p>13 <b>very professional individual, a very hard</b></p> <p>14 <b>working individual, an individual who</b></p> <p>15 <b>always had fighting crime at the centre of</b></p> <p>16 <b>everything he did. And his leadership style -</b></p> <p>17 <b>well, everyone's leadership style is probably</b></p> <p>18 <b>different but he had a very good, strong,</b></p> <p>19 <b>ethical leadership.</b></p> <p>20 Q. Would you say you have a different</p> <p>21 policing style to Mr McGrail - leadership</p> <p>22 style, sorry, to Mr McGrail?</p> <p>23 <b>A. There are different types of leadership</b></p> <p>24 <b>styles and leadership styles suit individuals</b></p> <p>25 <b>because of their personal traits. I have a</b></p> <p style="text-align: center;">Page 80</p>

20 (Pages 77 to 80)

<p>1 <b>different leadership style to him but that</b>  2 <b>doesn't make my leadership better or worse</b>  3 <b>than his.</b>  4 Q. How would you say your styles are  5 different?  6 <b>A. I think we are different in respect of what</b>  7 <b>we achieve to aim (sic) and how we get to</b>  8 <b>the objectives, and again, like I say, there's</b>  9 <b>different ways of achieving different things,</b>  10 <b>and I just think we're slightly different in that</b>  11 <b>regard.</b>  12 Q. Can we go to A146, please. This is Mr  13 McGrail's fifth witness statement to this  14 Inquiry and it is a reference to a meeting on  15 10 February 2017. Can I just read this out.  16 He says:  17 "A few days,"  18 this is in relation to the airport incident, at the  19 time of the airport incident. He says:  20 "A few days after the 10th February 2017  21 and in the absence of Commissioner Yome, I  22 attended a meeting with Fabian Picardo, at  23 his request, at the 'Wessex Lounge', Gibraltar  24 Airport. The Chief Minister was leaving for  25 the UK on a flight that afternoon. I was</p> <p style="text-align: center;">Page 81</p>	<p>1 complimentary of what we had done and the  2 manner we had done it - he said he was  3 proud of what the RGP and both Mr Ullger  4 and I had done. The language he used to  5 describe the three senior military officials  6 and their superiors was surprisingly uncouth  7 - he described them as 'fucking idiots'.  8 What is your recollection? Do you recall that  9 meeting?  10 <b>A. So I have grappled with this on a few</b>  11 <b>occasions because I have read it and I have</b>  12 <b>no reason to doubt what Mr McGrail is</b>  13 <b>saying in his statement at all. I just can't</b>  14 <b>remember it.</b>  15 Q. You have no recollection of this meeting.  16 <b>A. No. But I don't doubt it in the least, if</b>  17 <b>you understand what I am trying to say.</b>  18 Q. Do you have any recollection of the Chief  19 Minister using that language to describe  20 senior military officials?  21 <b>A. No.</b>  22 Q. Was your impression that the Chief  23 Minister was supportive of the approach that  24 the RGP had taken to the runway incident?  25 <b>A. So I didn't have any dealings myself</b></p> <p style="text-align: center;">Page 83</p>
<p>1 accompanied to this meeting by the then  2 Superintendent Richard Ullger. Mr Picardo  3 had in his possession a copy of the report of  4 the 10/02/17 which I had submitted to  5 Commissioner Yome - I assumed that  6 Commissioner Yome provided him with a  7 copy.  8 "Mr Picardo thanked and congratulated Mr  9 Ullger and myself for the manner the RGP  10 had dealt with the incident. I recall that Mr  11 Picardo commented that he had read my  12 report with great interest describing it as a  13 'gripping John Grisham novel' and adding  14 that he expected the three senior military  15 officials to now face due process for their  16 actions. He was quite forceful in saying this,  17 I would describe it as close to an order as it  18 could be interpreted to be. I informed Mr  19 Picardo that I would be reporting these  20 expectations up to Commissioner Yome.  21 "At no point during that meeting did Mr  22 Picardo express anything approaching  23 discontent or disapproval at how the RGP or  24 any individual officer acted in this matter -  25 quite the contrary, Mr Picardo was over</p> <p style="text-align: center;">Page 82</p>	<p>1 <b>directly with the Chief Minister but certainly</b>  2 <b>from what I had heard from Commissioner</b>  3 <b>Yome at the time, yes, yes, it was, very</b>  4 <b>supportive.</b>  5 Q. If we can go to your witness statement at  6 paragraph 5, your first statement, A528,  7 please. This is where you address the  8 appointment process in 2017 where Mr  9 McGrail was appointed as new  10 Commissioner of Police. You were the other  11 applicant for the role and you say in  12 paragraph 5:  13 "In respect of first question,"  14 which is the question put to you by the  15 Inquiry,  16 "the application process consisted of a  17 submission to the GPA that included  18 evidence of our Competency Values, a paper  19 outlining our vision for the RGP, a  20 presentation to the GPA, followed by an  21 interview on a separate date, again by the  22 GPA."  23 Is it correct that the recruitment process  24 consisted of written submission, a  25 presentation and an interview with the GPA,</p> <p style="text-align: center;">Page 84</p>

21 (Pages 81 to 84)

<p>1 from your recollection?</p> <p>2 <b>A. Correct.</b></p> <p>3 Q. Did you consider that that was a fair</p> <p>4 process at the time?</p> <p>5 <b>A. It's a very fair process. It's a process</b></p> <p>6 <b>that's followed by the National Police Chiefs</b></p> <p>7 <b>Councils in the UK, United Kingdom, and</b></p> <p>8 <b>the College of Policing.</b></p> <p>9 Q. If we go to A199, please, this is an</p> <p>10 exchange between the Chief Minister and the</p> <p>11 Interim Governor at the time, Mr Pyle, and I</p> <p>12 just want to focus on the third paragraph on</p> <p>13 that page, which contains a message timed at</p> <p>14 9.58 in the morning on 14 May. The</p> <p>15 Governor says:</p> <p>16 "Agree. As we thought at the time, wrong</p> <p>17 appointment. Remind me to tell you about</p> <p>18 the recruitment process which was abject."</p> <p>19 Did you share that impression of the</p> <p>20 application process?</p> <p>21 <b>A. No, not at all. It was a fair and very rigid</b></p> <p>22 <b>process.</b></p> <p>23 Q. Did you have any concerns about the</p> <p>24 application process?</p> <p>25 <b>A. No, in particular because the two</b></p> <p style="text-align: center;">Page 85</p>	<p>1 complaints made by RGP officers or the GPF</p> <p>2 to the GPA about Mr McGrail?</p> <p>3 <b>A. No.</b></p> <p>4 Q. If we go to paragraph 24 you say,</p> <p>5 "Certainly Mr Morello constantly qualified</p> <p>6 Mr McGrail as a bully but, as explained, he</p> <p>7 never made a formal complaint to me about</p> <p>8 it, nor did he report it to me officially." Did</p> <p>9 you agree with Mr Morello's assessment of</p> <p>10 Mr McGrail?</p> <p>11 <b>A. Not at all.</b></p> <p>12 Q. How would you describe Mr McGrail's</p> <p>13 management style?</p> <p>14 <b>A. Well, his management style is typical of</b></p> <p>15 <b>his leadership style, an individual who works</b></p> <p>16 <b>very, very hard who is extremely committed</b></p> <p>17 <b>to the Royal Gibraltar Police and the people</b></p> <p>18 <b>of Gibraltar, dedicated, disciplined as well</b></p> <p>19 <b>and in respect of the police federation,</b></p> <p>20 <b>particularly Mr Morello, what we found,</b></p> <p>21 <b>even myself, was that there were --- we were</b></p> <p>22 <b>dealing with a very difficult individual who</b></p> <p>23 <b>was given a position as chairman, a very</b></p> <p>24 <b>important position in policing, and we felt</b></p> <p>25 <b>that what he became was in many ways a</b></p> <p style="text-align: center;">Page 87</p>
<p>1 <b>applicants that had applied for the role of</b></p> <p>2 <b>Commissioner had been subjected to a</b></p> <p>3 <b>strategic command course with the College</b></p> <p>4 <b>of Policing in the United Kingdom so we</b></p> <p>5 <b>were both two candidates ready for that</b></p> <p>6 <b>position.</b></p> <p>7 <b>(12.01)</b></p> <p>8 Q. Are you aware of Mr Pyle making any</p> <p>9 complaint against Mr McGrail following his</p> <p>10 appointment?</p> <p>11 <b>A. None whatsoever.</b></p> <p>12 Q. What about against the RGP generally?</p> <p>13 <b>A. None whatsoever.</b></p> <p>14 Q. Turning to the GPF, the Gibraltar Police</p> <p>15 Federation, were you ever a member of the</p> <p>16 board of the GPF?</p> <p>17 <b>A. No, I have never been a member.</b></p> <p>18 Q. Can we go to paragraph 14 of your</p> <p>19 statement where you say, "I am also able to</p> <p>20 confirm that an extremely fraught</p> <p>21 relationship existed between Mr McGrail and</p> <p>22 the Chairman of the GPF, Mr Maurice</p> <p>23 Morello, who never met eye to eye with Mr</p> <p>24 McGrail making our day to day command</p> <p>25 business difficult." Were you aware of any</p> <p style="text-align: center;">Page 86</p>	<p>1 <b>rebel and very much trying to make life very</b></p> <p>2 <b>difficult for the command team and in</b></p> <p>3 <b>particular to Mr McGrail who he had a</b></p> <p>4 <b>dislike to.</b></p> <p>5 Q. Could Mr McGrail's management style</p> <p>6 have been interpreted by some as bullying?</p> <p>7 <b>A. In what respect, sorry?</b></p> <p>8 Q. From your experience and his</p> <p>9 management style, do you think that his</p> <p>10 management style could have been</p> <p>11 interpreted as bullying?</p> <p>12 <b>A. I think Mr Field alluded to it earlier on,</b></p> <p>13 <b>you know, we are dealing with different</b></p> <p>14 <b>types of people, different generations,</b></p> <p>15 <b>different personalities and what one</b></p> <p>16 <b>individual might think is bullying another</b></p> <p>17 <b>individual might just think it's the run of the</b></p> <p>18 <b>mill order of the day and this is the difference</b></p> <p>19 <b>that we need to make sure that people</b></p> <p>20 <b>understand in our organisation. We don't</b></p> <p>21 <b>hide from the fact that bullying did not exist</b></p> <p>22 <b>or does not exist in the RGP and we are</b></p> <p>23 <b>constantly doing things to try and address it</b></p> <p>24 <b>but I wouldn't say that people would think</b></p> <p>25 <b>that his style was bullying. Certainly what</b></p> <p style="text-align: center;">Page 88</p>

22 (Pages 85 to 88)

1 **Mr McGrail was, was a no-nonsense person.**  
 2 **He demanded respect from people and I**  
 3 **agree entirely with that.**  
 4 Q. Do you think that --- well, firstly, was  
 5 there an issue at the time in terms of  
 6 allegations of bullying?  
 7 **A. There's always been allegations of**  
 8 **bullying even in the times of previous**  
 9 **commissioners, Mr Wink, Mr Yome, Mr**  
 10 **McGrail and then even myself so there has**  
 11 **always been a prevalence of bullying in our**  
 12 **organisation, yes.**  
 13 Q. Of allegations of bullying?  
 14 **A. That's correct, yes.**  
 15 Q. Do you think that Mr McGrail did  
 16 enough to address the allegations of bullying  
 17 during his time?  
 18 **A. I think he did more than enough in actual**  
 19 **fact. He made it --- so because it was so**  
 20 **concerning for us as a command team, he**  
 21 **strived to try and root out what the problem**  
 22 **was and in 2019 we undertook some business**  
 23 **with a team of ex-His Majesty's Inspectorate**  
 24 **of Constabulary and Rescue Services police**  
 25 **officers with a company called AAP to come**

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1 **Gibraltar Police from Mr McGrail I thought**  
 2 **it was important --- one of the main issues**  
 3 **that we were having was the Federation, our**  
 4 **relationship with the Federation, so I did**  
 5 **absolutely everything possible to try and**  
 6 **bridge that gap with them and I did so**  
 7 **together with the command team and the**  
 8 **Assistant Commissioner in avoiding**  
 9 **confrontation as much as possible. We**  
 10 **wanted to collaborate with Mr Morello more**  
 11 **and we wanted to show the workforce that**  
 12 **we were working together with the**  
 13 **Federation. This may have worked for a**  
 14 **short period of time but after a year or two, I**  
 15 **faced exactly the same as Mr McGrail had**  
 16 **been facing during his two years as**  
 17 **Commissioner and that relationship between**  
 18 **myself and Mr Morello became very fraught**  
 19 **indeed.**  
 20 Q. Can I show you an email dated 10 March  
 21 2023 --- I am not sure if it is in the bundle  
 22 but we received it recently. This is an email  
 23 by you to all police staff on 10 March 2023  
 24 and I just want to read out the first paragraph,  
 25 "The Chairman of the Police Federation has

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1 **to the Royal Gibraltar Police and**  
 2 **contextualise the issue that was being aired.**  
 3 **That was done and as a result of that, a**  
 4 **number of working groups were formed in**  
 5 **order to address a number of issues and all or**  
 6 **that was completed.**  
 7 Q. Had you personally witnessed any  
 8 instances of bullying at the RGP during Mr  
 9 McGrail's time?  
 10 **A. During Mr McGrail's time as**  
 11 **Commissioner?**  
 12 Q. Yes, as Commissioner?  
 13 **A. No. Sorry, are you saying Commissioner**  
 14 **McGrail or the workforce?**  
 15 Q. Within the workforce not by Mr McGrail  
 16 himself?  
 17 **A. No, have not personally --- I would have**  
 18 **been the Assistant Commissioner at the time**  
 19 **and I didn't see anything personally myself,**  
 20 **no.**  
 21 Q. Since taking over command of the RGP  
 22 as Commissioner yourself, what has your  
 23 relationship with the Gibraltar Police  
 24 Federation been like?  
 25 **A. When I took over command of the Royal**

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1 chosen to write to you all and I don't intend  
 2 to answer all of his negative misleading  
 3 comments in his email to you but it is suffice  
 4 to say that as much as I have tried to work  
 5 with the Chairman and Secretary of your  
 6 Federation to try and achieve better things for  
 7 you all, it has been an almost impossible task  
 8 and I can no longer work with them. I  
 9 sincerely do apologise to you all because this  
 10 is not my style and many of you know how I  
 11 operate but, after much trying to collaborate  
 12 with them and avoiding confrontations, it is  
 13 my back that is broken. Instead of working  
 14 with me and the command team to achieve  
 15 good things for you all, they chose to  
 16 constantly attack us as the Chairman has  
 17 done in his email to you. The way the  
 18 Gibraltar Police Federation operates is  
 19 completely different to the way the Police  
 20 Federations in England and Wales operate  
 21 and I am seriously concerned that their  
 22 misrepresentation of you all is doing more  
 23 harm than good." Is that the position that  
 24 prevails to this day?  
 25 **A. No, not at all. So today we have a new**

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<p>1 <b>Chairman and we have a new Secretary and</b>  2 <b>the new Chairman who has come in, together</b>  3 <b>with the Secretary, will meet with me and the</b>  4 <b>Assistant Commissioner and we discuss and</b>  5 <b>we disagree but we respect each other and we</b>  6 <b>are already achieving a lot of good things for</b>  7 <b>the organisation.</b>  8 Q. So would you say that the position that is  9 reflected as you saw it on 10 March stayed in  10 place until the change of Chairman?  11 <b>A. That is correct.</b>  12 Q. Did the --- around the time of 10 March  13 or at any time when there was this  14 breakdown of the relationship between you  15 and the GPF did the police authority raise  16 any concerns as to the relationship between  17 you and the Federation?  18 <b>A. I had conversations with the Chairman of</b>  19 <b>the Gibraltar Police Authority and I shared</b>  20 <b>my concerns - I think he shared his concerns</b>  21 <b>with me, too - but I also shared my same</b>  22 <b>concerns with his Excellency, the Governor,</b>  23 <b>and again he agreed with me that the</b>  24 <b>relationship was not the best relationship</b>  25 <b>even though I had tried as much as I could.</b></p> <p style="text-align: center;">Page 93</p>	<p>1 opposing it?  2 <b>A. Yes, basically. We felt that we were not</b>  3 <b>ready for another inspection by His Majesty's</b>  4 <b>Inspectorate of Constabulary and Fire Rescue</b>  5 <b>Services simply because we had not done</b>  6 <b>enough work to achieve the</b>  7 <b>recommendations of the 2016 report.</b>  8 Q. How did Mr McGrail react when you told  9 him that you were opposed to inspection?  10 <b>A. He welcomed our --- I mean, we often</b>  11 <b>had discussions about very key issues in the</b>  12 <b>Royal Gibraltar Police and things of a critical</b>  13 <b>matter and he welcomed our discussion on it.</b>  14 <b>I think Mr McGrail had another overriding</b>  15 <b>factor and again it goes back to the whole</b>  16 <b>bullying allegations. I think he again wanted</b>  17 <b>that certification for maybe HMIC that the</b>  18 <b>organisation was not a bullying organisation</b>  19 <b>and I think maybe he concentrated too much</b>  20 <b>on that rather than the other details of the</b>  21 <b>previous report in fairness to Mr McGrail.</b>  22 Q. So as far as you understand it, was his  23 primary motivation to seek an inspection,  24 then the bullying --- then addressing the  25 bullying investigations?</p> <p style="text-align: center;">Page 95</p>
<p>1 Q. Can we now go to paragraph 42 of your  2 first statement, A451, this is --- we are now  3 turning to focus on the HMIC reports and  4 you say, "On a date that I cannot remember  5 Mr McGrail decided to ask the GPA for  6 HMIC FRS to come and inspect the RGP.  7 When he told the command team of his  8 decision, I can remember distinctively that  9 we all opposed it simply because we knew  10 that whilst progress had been made in some  11 areas, we had not done enough to achieve the  12 recommendations or areas of improvement of  13 the previous 2016 inspection." Is that your  14 evidence --- that explanation that you give, is  15 that the reason why you were in opposition to  16 instructing HMIC to conduct a report or is  17 there anything that you wish to add?  18 <b>A. I am sorry, I haven't understood the</b>  19 <b>question.</b>  20 Q. I am sorry, it was not a very clear  21 question. You set out in the second sentence  22 of that paragraph the reasons why you  23 opposed --- the command team opposed the  24 instruction of HMIC to conduct a report.  25 Does that encapsulate all of your reasons for</p> <p style="text-align: center;">Page 94</p>	<p>1 <b>A. Principally around that, yes.</b>  2 Q. In your view, had Mr McGrail and the  3 senior management team worked hard in the  4 time available to implement the 2016  5 recommendations?  6 <b>A. I am sorry?</b>  7 Q. I am sorry, in your view, had the senior  8 management team worked hard in the time  9 available to implement the HMIC  10 recommendations from the previous report?  11 <b>A. So he had done some work towards the</b>  12 <b>2016 report but we hadn't done enough, but I</b>  13 <b>think it's important that we qualify and</b>  14 <b>quantify. Even though HMIC asked us to do</b>  15 <b>X, Y and Z and made a report and asked us</b>  16 <b>to do certain things to make our organisation</b>  17 <b>better, it doesn't mean that we weren't</b>  18 <b>policing and we weren't doing other things as</b>  19 <b>well, so I think it's very important that this</b>  20 <b>needs to be reflected that Mr McGrail had a -</b>  21 <b>-- he was determined to make sure that</b>  22 <b>Gibraltar continued to remain safe and there</b>  23 <b>was a lot of work that we were doing with</b>  24 <b>different strategic partners, different law</b>  25 <b>enforcement agencies, particularly Spain in</b></p> <p style="text-align: center;">Page 96</p>

24 (Pages 93 to 96)

1 **respect of counter-terrorism and organised**  
 2 **crime and potentially what happened is that**  
 3 **we concentrated a lot of our good work there**  
 4 **rather than on HMIC.**  
 5 Q. At paragraph 44 of your statement, and  
 6 towards the end of it, about five --- the last  
 7 five lines, you say, "During our time in  
 8 collecting the evidence for the terms of  
 9 references, it became apparent to me that my  
 10 concerns were indeed confirmed and that we  
 11 hadn't done what was expected of us. This  
 12 was further highlighted to me by HMIC Paul  
 13 Holewell before his visit to Gibraltar." What  
 14 areas of the report were you --- what areas of  
 15 the recommendations were you referring to  
 16 when you said, "We hadn't done what was  
 17 expected of us"?"  
 18 **A. I think the two main principal key areas**  
 19 **were how we managed and investigated**  
 20 **crime and how we recorded crime.**  
 21 Q. And in what way did you think that the  
 22 RGP had failed to do what was expected?  
 23 **A. Well, we should have implemented**  
 24 **policies, procedures; we should have**  
 25 **resourced departments that needed**

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1 **resourcing. I think another important thing**  
 2 **here that we need to acknowledge is that**  
 3 **HMIC does come in and makes a lot of**  
 4 **"asks" of you and when it makes a lot of**  
 5 **"asks" of you, you need to potentially create**  
 6 **different departments and this is what we**  
 7 **were facing. To create new departments to**  
 8 **do what HMIC were asking us to do would**  
 9 **mean that we would have gaps in front line**  
 10 **policing and we could potentially have gaps**  
 11 **in our crime division and I think, in fairness**  
 12 **again to Mr McGrail, he opted to be fighting**  
 13 **crime more than doing the policy work.**  
 14 Q. Did you think ----  
 15 **A. I am sorry, can I just add on to there as**  
 16 **well, I think we must not forget as well that**  
 17 **the Royal Gibraltar Police had just gone**  
 18 **through a HR audit in 2015 where we were**  
 19 **seeking more police officers and we were**  
 20 **going through that process, so we didn't have**  
 21 **the capacity to be able to do some of the**  
 22 **things.**  
 23 Q. Did you raise your concerns about  
 24 recording and investigating crime with Mr  
 25 McGrail before the inspection took place?

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1 **A. We had conversations at a command**  
 2 **level with other commanders and I think he**  
 3 **probably agreed with us but he was still**  
 4 **insistent on the inspection to proceed and**  
 5 **again, in fairness to Mr McGrail, all he aid**  
 6 **was that we would come out better out of it**  
 7 **because we would get new learning**  
 8 **outcomes and that --- and we decided to go**  
 9 **ahead with it.**  
 10 Q. Was there ever a discussion about setting  
 11 up a working group to address the  
 12 recommendations prior to the inspection  
 13 taking place?  
 14 **A. No.**  
 15 Q. Can we look at 45 ----  
 16 **A. I am sorry, can I just contextualise that?**  
 17 **There wasn't a working group as such but**  
 18 **certainly the command team and the**  
 19 **commanders in the different portfolios would**  
 20 **be expected to start doing some work in**  
 21 **respect of the HMIC recommendations but**  
 22 **no work --- not much work had happened,**  
 23 **no.**  
 24 Q. Can we look at paragraph 45 of your  
 25 witness statement and skip over the first three

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1 lines, you say, "The team consisted of HMI  
 2 Matt Parr and Paul Holewell and in their  
 3 debrief they provided a relatively positive  
 4 outlook for the organisation but also  
 5 acknowledging that some of the  
 6 recommendations had not been addressed  
 7 from the 2016 inspection, stating that there  
 8 would be further recommendations arising  
 9 out of this. I was relatively surprised at those  
 10 positive comments. I expressed my view to  
 11 Mr McGrail that his decision to ask for an  
 12 inspection had been the right decision after  
 13 all." Were any specific areas identified as  
 14 not having been addressed during that  
 15 debrief?  
 16 **A. The two were the two key ones that I**  
 17 **have already mentioned.**  
 18 Q. I think this goes --- from what you say  
 19 but just to clarify, given the relatively  
 20 positive comments, were you expecting a  
 21 relatively positive report?  
 22 **A. I don't think with these things that you**  
 23 **expect a positive report because, again, the**  
 24 **inspection is all about learning. What we**  
 25 **didn't expect was for it to be as damning as it**

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1 was and it was completely the opposite to  
 2 what both Matt Parr HMI and Paul Holewell  
 3 had told us in our debrief, so much so that  
 4 when the meeting finished and they left New  
 5 Mole House police station, I shook Mr  
 6 McGrail's hand and I said, "Well done, you  
 7 know, it appears to have worked and  
 8 hopefully it won't be as bad." You know, we  
 9 never thought it was going to be as bad as it  
 10 was. We always knew that there would be  
 11 learning outcomes but we didn't think it  
 12 would be as critical as it was of us.  
 13 Q. Can I ask you now to turn to D2193,  
 14 please, which is an email of 14 April 2020  
 15 from the chair of the GPA, Dr Joe Britto, to  
 16 Mr McGrail and you, subject "HMIC report,"  
 17 and it says, "Good morning, gents, I hope  
 18 you've had a reasonably restful Easter.  
 19 Would it be possible for us to meet to discuss  
 20 the above caption, Wednesday, Thursday or  
 21 Friday. I can work around your availability  
 22 so just identify a day and time, thanks,  
 23 regards Joey." Did that meeting take place  
 24 after 14 April?  
 25 **A. I'm not too sure whether the meeting that**

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1 **I remember was as a result of that email, but**  
 2 **certainly there was a meeting that I was in**  
 3 **together with Mr Britto and the**  
 4 **Commissioner where I briefed Mr Britto of**  
 5 **what we were doing already to start working**  
 6 **towards achieving the recommendations.**  
 7 Q. Do you have any notes of that meeting?  
 8 **A. I've got just a brief note just saying,**  
 9 **"Briefed GP HM and HMIC**  
 10 **recommendations."**  
 11 Q. Did Dr Britto express any concerns about  
 12 the HMIC report to Mr McGrail or to you?  
 13 **A. Again I think I go back to what I said**  
 14 **earlier; I think we were unhappy that we'd**  
 15 **received a report which was critical in some**  
 16 **areas but I think one of the things that Mr**  
 17 **Britto took out of it was that we were already**  
 18 **addressing the recommendations and it was**  
 19 **then that Commissioner McGrail had asked**  
 20 **me to start working towards having a steering**  
 21 **group in addressing all the different areas and**  
 22 **we started working towards that.**  
 23 Q. Did you get the impression that Dr Britto  
 24 was supportive of Mr McGrail and the RGP  
 25 in responding to the report?

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1 **A. Yes, very supportive.**  
 2 Q. If we go to B1548, please, this is the final  
 3 version of the 2020 HMIC report, and if we  
 4 can go to B1550 now, please, this sets out a  
 5 summary of the report and I just want to look  
 6 at the first two paragraphs of that summary,  
 7 so just bear with me while I pick it up on my  
 8 own screen, it says, "The first part of this  
 9 report is about the progress that Royal  
 10 Gibraltar Police have made since our 2016  
 11 inspection. When we revisited the force in  
 12 2019 we found that it had met two out of  
 13 eight areas for improvement. We expected  
 14 the force to have done more to assess and  
 15 understand demand, risk and vulnerability.  
 16 We also expected it to be better at  
 17 supervising investigations and managing  
 18 capacity. We have made five new  
 19 recommendations relating to those issues.  
 20 The second part of the report is a new  
 21 inspection of the force's legitimacy. It  
 22 includes eight areas for improvement and  
 23 makes five recommendations intended to  
 24 help the force better promote ethics, fairness  
 25 and transparency." Did you consider that

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1 that was a fair reflection of the RGP's  
 2 performance in meeting the 2016  
 3 recommendation?  
 4 **A. Yes.**  
 5 Q. Did you consider that the methodology  
 6 adopted by the inspectors was fair?  
 7 **A. Yes, I do.**  
 8 Q. Did you agree or disagree with the areas  
 9 for improvement identified by the report?  
 10 **A. No, I didn't.**  
 11 Q. Could you elaborate on that?  
 12 **A. So one of the areas that they thought we**  
 13 **weren't very good at was assessing demands**  
 14 **and risks. Now, as an organisation, we have**  
 15 **a process in place where we police our**  
 16 **highest risks so the Assistant Commissioner**  
 17 **usually at the beginning of the year together**  
 18 **with different commanders of the different**  
 19 **departments will ask for strategic demand**  
 20 **assessments and using a morale, which is the**  
 21 **management of risk in law enforcement, is**  
 22 **look at where those risks are for us as an**  
 23 **organisation and we police those risks with**  
 24 **our resources. What happens then is that**  
 25 **where there are demands coming in which**

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<p>1 are unnecessary demands in the Royal 2 Gibraltar Police, we have become more 3 mature in saying "no" to those demands and 4 it has taken us probably a good part of three 5 to four years to make sure that Gibraltar 6 understands that we will not police certain 7 demands that were expected of us and this is 8 where HMIC was very critical of us. We 9 were doing things that we should not be 10 doing when it should have been done by 11 other organisations and it meant over the 12 months and the years with me and the 13 Assistant Commissioner writing to different 14 organisations, different strategic partners, 15 relinquishing our responsibility in what we 16 considered to be their risk areas. So that was 17 one of the biggest pieces of work that we 18 have done and certainly when HMIC came 19 back to see us in 2022 they had seen a vast 20 improvement of how we did this. This has 21 come with its challenges. It has come with 22 challenges not only with the public but also 23 with the ministers. So, therefore --- but I am 24 glad to see that people have understood what 25 we were doing but it has been very</p> <p style="text-align: center;">Page 105</p>	<p>1 inspectorate? 2 <b>A. No, not at all, sorry.</b> 3 Q. Thank you. Sorry, I interrupted your 4 answer about ethics. 5 <b>A. I was just going to elaborate as well on 6 the piece of work that we've done in respect 7 of promoting the Code of Ethics in our 8 organisation. So we have --- and in actual 9 fact, Mr McGrail is the person who initially 10 started it off post the 2019 inspection because 11 we knew Code of Ethics was going to be 12 coming our way, we have done a lot of work 13 in our organisation in promoting ethics and 14 also that meant showing that we have 15 professional standards --- a professional 16 standards department that is resourced to be 17 able to investigate matters that are of a 18 concern to us as an organisation that could 19 reputationally damage us because of bad 20 behaviours of police officers.</b> 21 Q. If we can turn to B1552 please, just 22 further on in the report, and I would like to 23 focus about halfway down the page, there is a 24 bullet point that has the heading "Role 25 models.," It says, "We were told of a firm</p> <p style="text-align: center;">Page 107</p>
<p>1 <b>challenging and ---</b> 2 Q. And so --- 3 <b>A. Sorry, sorry.</b> 4 Q. I was going to pick up on that answer, 5 and so if you were going to move on to 6 something else ? 7 <b>A. No, I was going to go on to the second 8 part of the inspection which was about 9 promoting ethics and --- but if you wanted to 10 ---</b> 11 Q. Just to follow on from that, it sounds 12 from what you are saying that a lot of work 13 was done after the HMIC recommendations 14 but you said that you disagreed, nevertheless, 15 with the area for improvement. I asked you 16 whether there were any areas for 17 improvement that you disagreed with and 18 you highlighted that. 19 <b>A. And I didn't disagree.</b> 20 Q. I am sorry. 21 <b>A. Oh, I thought we ---</b> 22 Q. Thank you, then I misunderstood you. 23 <b>A. I apologise, sir.</b> 24 Q. Did you disagree with any other areas for 25 improvement that were identified by the</p> <p style="text-align: center;">Page 106</p>	<p>1 leadership style in the force and some of the 2 workforce perceived that some managers 3 sought too readily to blame and reprimand. 4 We did not encounter any evidence of 5 bullying although looking for it did not fall 6 within our terms of reference. Leadership 7 development is an area of improvement for 8 the force and it might benefit from exchanges 9 with officers in England and Wales about 10 these subjects. Our additional 11 recommendation is that the senior leadership 12 team produce an anti-bullying statement and 13 improved processes to prevent bullying." 14 Did you accept that conclusion at the time? 15 <b>A. Yes, I did.</b> 16 Q. Have you since implemented an anti- 17 bullying statement/ 18 <b>A. Yes, we have and in actual fact we did a 19 lot of work with the Gibraltar Police 20 Federation and together with the Chairman at 21 the time, Mr Maurice Morello.</b> 22 Q. After this report? 23 <b>A. After this report, correct.</b> 24 Q. Can I just ask you, you said earlier that 25 Mr McGrail's primary motivation in seeking</p> <p style="text-align: center;">Page 108</p>

27 (Pages 105 to 108)

1 this report was to address the allegations of  
 2 bullying, why then do you understand that  
 3 the bullying --- looking for bullying did not  
 4 fall within HMIC's terms of reference?  
 5 **A. I think probably looking at it generally ---**  
 6 **that's the only thing that I can really say**  
 7 **about it, looking at it generally to see**  
 8 **whether there was a perception of bullying in**  
 9 **the organisation and that it would be seen by**  
 10 **HMIC.**  
 11 Q. On the same page, just further down, the  
 12 penultimate bullet point is tackling  
 13 misconduct and corruption. Again it says,  
 14 "This is an area for improvement. The force  
 15 does not fully understand its exposure to the  
 16 risk of corruption. The professional  
 17 standards unit lacks the resource and  
 18 expertise to develop a full understanding of  
 19 the risk or to monitor and mitigate the threat.  
 20 Our recommendation is that the senior  
 21 leadership team determine the best model for  
 22 providing counter corruption capability to  
 23 identify and pursue corrupt employees or  
 24 employees who are susceptible to  
 25 corruption." Did you agree that the RGP was

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1 not fully aware of this risk?  
 2 **A. If you asked me when this report came**  
 3 **out in 2020 I was probably a little naïve but I**  
 4 **do now. We have certainly learned a lot over**  
 5 **the past four years.**  
 6 Q. Did you agree that you lacked the  
 7 resources to address this?  
 8 **A. Absolutely, yes, absolutely. We didn't**  
 9 **have resources. We didn't have enough**  
 10 **resources but I go back to what I said earlier**  
 11 **on about the 2015 HR audit, we were asking**  
 12 **for more officers, we needed more officers**  
 13 **and if you removed officers from front line**  
 14 **policing into other areas of policing, what**  
 15 **takes a dent is your front line policing, your**  
 16 **crime investigators. In actual fact, because**  
 17 **of HMIC coming to see us subsequently, we**  
 18 **invested a lot of resources into our counter**  
 19 **corruption unit and professional standards**  
 20 **department as well as other departments and**  
 21 **we were severely criticised by the police**  
 22 **federation for doing that because they said**  
 23 **that we were doing --- we were making ---**  
 24 **we were giving too much emphasis on the**  
 25 **HMIC report than their plight. (12.31)**

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1 Q. Could we now turn to A27 please, which  
 2 is Mr McGrail's first witness statement to the  
 3 inquiry. I just want to look at paragraph 74  
 4 at the bottom of that page, where Mr McGrail  
 5 says, "Although in places the report is  
 6 critical, there no express criticism of myself.  
 7 I had been in post for 18 months at the time  
 8 of the inspection." Do you agree with Mr  
 9 McGrail's interpretation of the report?  
 10 **A. If that would have been me, I would have**  
 11 **felt that I had failed but I agree with what he**  
 12 **is saying, that there is no criticism about**  
 13 **himself but I think what we need to**  
 14 **understand as well is that Mr McGrail had a**  
 15 **command team and we were all responsible,**  
 16 **so it was not only he that was leading -- well,**  
 17 **he was leading the force, but we were**  
 18 **supporting him. So it was a failure on our**  
 19 **part as well.**  
 20 Q. As Commissioner of the Police, do you  
 21 consider that you are ultimately responsible  
 22 for criticism that the RGP receives?  
 23 **A. I am.**  
 24 Q. And criticism in a HMIC report?  
 25 **A. I am.**

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1 Q. Can we go to your first witness statement,  
 2 A542, paragraph 47 please? You say, "It is  
 3 important that at this stage I also include  
 4 mention that HMICFRS returned to Gibraltar  
 5 in April 2022, to undertake a further  
 6 inspection of the RGP, that received a  
 7 favourable outcome. This was as explained  
 8 also a backwards looking audit that took into  
 9 account changes made since the last audit."  
 10 Can you please explain briefly what you  
 11 mean by a favourable outcome?  
 12 **A. Well, the report in itself was a favourable**  
 13 **report, where HMIC had reported that we**  
 14 **had achieved the recommendations and, bar**  
 15 **three of the recommendations which we**  
 16 **could not complete because of a number of**  
 17 **reasons, particularly because of Covid that**  
 18 **had hit us and because we needed support**  
 19 **elsewhere, it was a favourable report, yes.**  
 20 Q. Do you consider that that inspection was  
 21 comparable in terms of methodology and  
 22 depth to the 2019 inspection?  
 23 **A. Yes, in methodology, yes.**  
 24 Q. You say methodology. Do you not agree  
 25 in terms of depth?

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<p>1 <b>A. And in depth, sorry, yes, exactly.</b></p> <p>2 Q. Was it the same inspectors?</p> <p>3 <b>A. It was the main lead inspector, Paul</b></p> <p>4 <b>Hullwell(?) and supported by Matt Parr, who</b></p> <p>5 <b>was His Majesty's Inspectorate, yes, but</b></p> <p>6 <b>different team members.</b></p> <p>7 Q. Do you consider that you had more</p> <p>8 resources at your disposal than Mr McGrail</p> <p>9 did in 2019?</p> <p>10 <b>A. It really depends on where we were in the</b></p> <p>11 <b>organisation in respect of when we started,</b></p> <p>12 <b>when we were -- so, I would not say that we</b></p> <p>13 <b>had more resources, no.</b></p> <p>14 Q. Can we look at 26 of your statement</p> <p>15 please? This is turning now to Operation</p> <p>16 Delhi and I want to pick up about halfway</p> <p>17 down that paragraph, there is a sentence that</p> <p>18 starts, "During the course of the</p> <p>19 investigation". Can you see that? It is right</p> <p>20 next to the cursor. "During the course of the</p> <p>21 investigation"?</p> <p>22 <b>A. Yes, I have got it.</b></p> <p>23 Q. You say, "During the course of the</p> <p>24 investigation, I did learn that Mr James Levy</p> <p>25 KC became a suspect and that there were a</p> <p style="text-align: center;">Page 113</p>	<p>1 from recollection, are you talking about</p> <p>2 meetings which took place before 12th May</p> <p>3 or after 12th May?</p> <p>4 <b>A. Before 12th May.</b></p> <p>5 Q. Before 12th May.</p> <p>6 <b>A. But again, I would not have had any</b></p> <p>7 <b>detail because this is a matter that was being</b></p> <p>8 <b>led by the gold commander, Mr Richardson,</b></p> <p>9 <b>and supported by Mr McGrail as the</b></p> <p>10 <b>Commissioner of Police because of the</b></p> <p>11 <b>delicate operation it was. I think it is</b></p> <p>12 <b>important to say here, at this stage, is that</b></p> <p>13 <b>Gibraltar was, as the rest of the world was,</b></p> <p>14 <b>going through a Covid crisis, so we were</b></p> <p>15 <b>learning how to police Gibraltar differently.</b></p> <p>16 <b>We also has Brexit, you know the fact that</b></p> <p>17 <b>we were still sitting on a cliff edge, and we</b></p> <p>18 <b>were preparing for two possibilities. So there</b></p> <p>19 <b>was a lot of work happening with the</b></p> <p>20 <b>National Policing Coordinating Centre to</b></p> <p>21 <b>prepare us for that. We had the HMIC</b></p> <p>22 <b>recommendations that we needed to work</b></p> <p>23 <b>towards. So there was a lot of strategic</b></p> <p>24 <b>things happening besides Operation Delhi, so</b></p> <p>25 <b>I didn't have full knowledge of absolutely</b></p> <p style="text-align: center;">Page 115</p>
<p>1 number of meetings where Ian McGrail the</p> <p>2 commissioner, together with the investigating</p> <p>3 team attended. I am unsure who attended</p> <p>4 who attended these meetings and how many</p> <p>5 meetings and how many meetings had there</p> <p>6 been, but I believe that some of these</p> <p>7 meetings were either at the Attorney</p> <p>8 General's ... or the Director of Public</p> <p>9 Prosecution's ... office. I do also remember</p> <p>10 that on one of the occasions, Mr McGrail did</p> <p>11 return to New Mole Police Station and was</p> <p>12 displeased with the support he was getting</p> <p>13 from the AG indicating that it would appear</p> <p>14 was not keen to proceed with the</p> <p>15 investigation." Can you be any more specific</p> <p>16 about the dates of these meetings?</p> <p>17 <b>A. So there would not have been meetings as</b></p> <p>18 <b>such where we were discussing strategic</b></p> <p>19 <b>direction for investigations. It was general</b></p> <p>20 <b>comments more than anything.</b></p> <p>21 Q. But in terms of the meetings that you</p> <p>22 were referring to between Mr McGrail and</p> <p>23 the AG and the DPP, I appreciate that if you</p> <p>24 had dates, you probably would have put them</p> <p>25 in the statement, but I just want to ask you</p> <p style="text-align: center;">Page 114</p>	<p>1 <b>everything that was happening.</b></p> <p>2 Q. Did Mr McGrail ever explain to you why</p> <p>3 he was displeased at that the support that he</p> <p>4 was receiving from the Attorney General?</p> <p>5 <b>A. No, not in detail.</b></p> <p>6 Q. To your knowledge, did the Attorney</p> <p>7 General raise any concerns with the RGP or</p> <p>8 elsewhere about Mr McGrail's policing style?</p> <p>9 <b>A. Never.</b></p> <p>10 Q. If we now look at paragraph 27 of your</p> <p>11 statement, over the next page, there -- I am</p> <p>12 picking it up from the top of page A535, yes</p> <p>13 there. Just picking up from the second line,</p> <p>14 you say, "It was not until the 22nd of May</p> <p>15 2020, that I learnt that Ian McGrail had been</p> <p>16 asked as Commissioner of Police to take</p> <p>17 early retirement by the Chairman of the</p> <p>18 GPA. In a meeting where I was together</p> <p>19 with Paul Richardson, Cathal Yeats and</p> <p>20 Wayne Tunbridge, Ian McGrail explained of</p> <p>21 the unjust request, stating that only a week</p> <p>22 before he had briefed the Chairman of the</p> <p>23 GPA about Operation Kram and Delhi and</p> <p>24 the HMICFRS report, and that at no time had</p> <p>25 the Chairman raised any concerns about his</p> <p style="text-align: center;">Page 116</p>

29 (Pages 113 to 116)

<p>1 performance as Commissioner." You refer to 2 the unjust request. Was that a quotation of 3 Mr McGrail or was that your own assessment 4 of the request? 5 <b>A. That was an expression that he was 6 sharing with us and I think, as a command 7 team, we just could not understand what was 8 happening because, you know, it was so 9 sudden for this to have happened and it just 10 did not make sense.</b> 11 Q. Can we just turn to A529 now please? 12 This is paragraph 9 of your witness statement 13 and you say, "Perhaps of some relevance is a 14 conversation I had on the 9th of June 2020, 15 the day I met Mr Nick Pyle in his capacity as 16 the Acting Governor, and on Mr McGrail's 17 last day with us in the RGP. In the 18 Governor's Office, we discussed Mr Pyle's 19 preference of having a UK Senior Police 20 Officer take command of the RGP for a short 21 period and we discussed this. I disagreed 22 with him and provided him with my 23 rationales. During this time, he disclosed to 24 me that he was not questioning my ability to 25 Command the RGP as the Commissioner of</p> <p style="text-align: center;">Page 117</p>	<p>1 Q. Did you know whether Mr Pyle or 2 anybody else had expressed a preference for 3 a UK officer at the time of Mr McGrail's 4 appointment? 5 <b>A. Sorry, can you repeat the question?</b> 6 Q. At the time of Mr McGrail's appointment 7 -- 8 <b>A. No, sorry, no.</b> 9 Q. -- were you aware? 10 <b>A. No.</b> 11 Q. If we can now go to your paragraph 51, 12 A543, you say, "Mr McGrail's departure 13 from the RGP was difficult time for me, and 14 many other particularly senior officers. His 15 request to retire early was a shock to us and 16 we failed to really understand the entirety of 17 the ask, or even the justification in doing so. 18 That remains my position and I believe our 19 position. We certainly did not see it coming, 20 there were no obvious or less obvious 21 warning signs or letters which made it that 22 much harder to understand or comprehend 23 and it did raise concerns at senior 24 management or Command level. Perhaps 25 this Inquiry may illuminate the matter and</p> <p style="text-align: center;">Page 119</p>
<p>1 Police, as he in fact had been supportive of 2 my application as Commissioner in 2017, 3 over Mr McGrail's application. However, I 4 did not, and do not treat his expression of a 5 preference as any criticism or objection to Mr 6 McGrail appointment by him. I thanked him 7 for this, and we continued to engage in the 8 conversation about the RGP and its future." 9 Did Mr Pyle explain his rationale for his 10 preference of having a UK Senior Police 11 Officer as Commissioner? 12 <b>A. I think Mr Pyle wanted a UK police 13 officer to come in to give somewhat maybe 14 independence. I do not think he knew 15 enough, really, to be making that judgment 16 call and I disagreed with him. I disagreed 17 with him entirely, simply because at that 18 point, there were two capable officers of 19 being the next Commissioner and having 20 under gone the strategic command course, 21 which was Mr Yeats and myself, so that is 22 why I disagreed with him.</b> 23 Q. Did Mr Pyle ever explain to you why a 24 UK officer was not appointed? 25 <b>A. No.</b></p> <p style="text-align: center;">Page 118</p>	<p>1 allow us to understand matters better." Why 2 do you say that Mr McGrail's retirement was 3 a difficult time for you? 4 <b>A. Because we were very, very good friends, 5 probably best friends.</b> 6 Q. Were you aware at the time why the 7 Chief Minister, Mr Pyle, had said that they 8 lost confidence in Mr McGrail? 9 <b>A. No, I did not.</b> 10 Q. Knowing what you do now, do you agree 11 or disagree with the reasons that I give? 12 <b>A. I think that is a matter for this public 13 inquiry to make that judgment, I am sorry.</b> 14 Q. Did you share any of the concerns that 15 were raised at the time? 16 <b>A. By who, sorry?</b> 17 Q. By the Chief Minister, Mr Pyle? 18 <b>A. So the Chief Minister at the time, I did 19 not see the Chief Minister. It was just Mr 20 Pyle on that day, which was a very short 21 conversation. I did not meet anyone else 22 after that regarding Mr McGrail's departure. 23 Hence, when I wrote this statement, which 24 was quite a while later, I still did not know 25 up to that date really the true reasons.</b></p> <p style="text-align: center;">Page 120</p>

<p>1 Q. What impact, if any, did Mr McGrail's 2 retirement have on morale within the RGP as 3 far as you could tell? 4 <b>A. I heard Mr Field say earlier on that it had 5 an impact at the command level. Of course it 6 does. You know, you have your top man, the 7 leader of your organisation being asked to 8 leave the organisation and at that time, for 9 me at that time, it was -- you know, it just did 10 not make any sense whatsoever. Yes, we 11 were dealing with a number of critical 12 incidents, yes we were dealing with a very 13 unfortunate collision at sea. The Delhi 14 inquiry, the HMIC report, but we were doing 15 a lot of good stuff and it was under his 16 command that a lot of good stuff was 17 happening. So to see an individual go who 18 always had -- who has the Royal Gibraltar 19 Police at his heart, to see him go the way he 20 did was heart breaking.</b> 21 Q. Did Mr McGrail's retirement have any 22 impact on how the senior management team 23 conducts itself? 24 <b>A. Sorry, in what respect?</b> 25 Q. In conducting their duties.</p> <p style="text-align: center;">Page 121</p>	<p>1 <b>Chief Minister, and His Excellency the 2 Governor has been an extremely important 3 figure whilst I've been the commissioner of 4 police.</b> 5 Q. So do you continue to expect that 6 support? 7 <b>A. Yes.</b> 8 Q. Do you have any concerns that the RGP's 9 independence suffered as a result of Mr 10 McGrail's retirement? 11 <b>A. I think again it is for this public inquiry to 12 determine that.</b> 13 Q. What is your relationship with the Chief 14 Minister like? 15 <b>A. I do a lot of my business with the 16 Chairman of the Gibraltar Police Authority, 17 who I am answerable to in the Police Act. I 18 also work extremely closely, together with 19 His Excellency the Governor, who has been a 20 very big support of the Royal Gibraltar 21 Police and supported us during this 22 challenging time, and the Chief Minister is a 23 person that I will go to for matters of finance.</b> 24 Q. Would you say you have a good working 25 relationship with him?</p> <p style="text-align: center;">Page 123</p>
<p>1 <b>A. I am sorry, I just do not understand the 2 question. In what context?</b> 3 Q. You have explained your experience and 4 the impact it had on morale, his departure 5 and the manner of his departure. Did that 6 have any impact going forwards on the senior 7 management team's conduct of its own work? 8 <b>A. Obviously, I think the rest of the 9 command team was well shared. I think my 10 view is we were pretty upset about the fact 11 that he was leaving us, but I remember one 12 thing that Mr McGrail said before he left.</b> 13 Q. Take your time, Mr Ullger. 14 <b>A. And he said that the Royal Gibraltar 15 Police was more important than him and he 16 expected us to take it forward.</b> 17 Q. Did you feel that you could fulfil your 18 duties without fear or favour going forwards? 19 <b>A. We had to.</b> 20 Q. Has it had any impact on the senior 21 management team's expectation as to support 22 that it will receive from the government, 23 from the Attorney General, from the DPP? 24 <b>A. Professionally, we seek support from the 25 DPP, the AG, the Minister for Policing, the</b></p> <p style="text-align: center;">Page 122</p>	<p>1 <b>A. Yes.</b> 2 Q. The next topic I want to ask you about is 3 the allegations of job offers in response to 4 evidence. Are whistle blower protections 5 available to all members of the RGP? 6 <b>A. So there are a number of ways, the way 7 we deal with whistle blowers. The whole 8 whistle blower has only come to light simply 9 because of this public inquiry, but the Royal 10 Gibraltar Police expects its officers to report 11 matters and to report matters of, you know, 12 criminal matters or matters of unacceptable 13 behaviour, particularly inside the 14 organisation and this is why we have the 15 codes of ethics. The code of ethics sits at the 16 heart of everything that we do and 17 determines our principles in policing and our 18 standards of behaviour. So the code of ethics 19 is very, very important to us but we have also 20 got other ways and means that people can 21 report matters that are affecting them 22 internally in the organisation. So recently, a 23 lot of the work that we did in respect of the 24 counter corruption work, as a result of the 25 HMIC inspection, was having an anonymous</b></p> <p style="text-align: center;">Page 124</p>

<p>1 <b>reporting tool in the organisation which</b>  2 <b>allows individuals to report anonymously to</b>  3 <b>the counter corruption, or the professional</b>  4 <b>standards teams about matters which they</b>  5 <b>feel that should be investigated by them,</b>  6 <b>completely independent, and they are</b>  7 <b>independent, completely independent from</b>  8 <b>me and they only report to the determining</b>  9 <b>officer, who is the Assistant Commissioner.</b>  10 <b>Then of course, we get some work in respect</b>  11 <b>of the grievance process and we have got a</b>  12 <b>grievance policy in place which allows</b>  13 <b>officers to go to grievance handlers, to</b>  14 <b>grievance managers, supported by a</b>  15 <b>grievance champion, who reports to the</b>  16 <b>Gibraltar Police Authority matters where</b>  17 <b>people may wish to report matters of</b>  18 <b>grievance. Then of course we have got the</b>  19 <b>Employment Act, where we support people</b>  20 <b>and protect people who wish to become</b>  21 <b>whistle blowers.</b>  22 Q. Have there been examples of people  23 availing themselves of that procedure within  24 the RGP?  25 <b>A. No.</b></p> <p style="text-align: center;">Page 125</p>	<p>1 him to concerns, I had about these  2 individuals specifically serious reservations  3 about their integrity. I also informed the  4 Governor that I had informed Mr McGrail of  5 this, as it was important to do so on the  6 grounds of Mr McGrail's own position." You  7 refer to three officers here. Do you know if  8 those three officers have given evidence to  9 this inquiry?  10 <b>A. I believe they have, yes.</b>  11 Q. You say in fact it -- sorry, in paragraph  12 29, you say, "In fact, it subsequently  13 transpired that these three individuals gave  14 witness statements in a matter entirely  15 unrelated to Operation Delhi or Hassans Law  16 Firm" and you refer to a judicial review  17 claim. I just want to focus on the inquiry.  18 You say you believe that they have given  19 evidence to the inquiry. Are you aware  20 whether their evidence has been deemed  21 relevant by the inquiry?  22 <b>A. I believe not.</b>  23 Q. At A130 -- can we turn to A130 please,  24 which is Mr McGrail's third witness  25 statement. Paragraph 155. Mr McGrail says,</p> <p style="text-align: center;">Page 127</p>
<p>1 Q. What would the procedure entail?  2 <b>A. The procedure would be them coming to</b>  3 <b>me as being the authority in place to be able</b>  4 <b>to offer them the protection.</b>  5 Q. If we go to your paragraph 28 please,  6 which is on A535, this is in response to a  7 question by the inquiry as to the background  8 and circumstances to your report to His  9 Excellency the Governor of Gibraltar about  10 ex-members of the RGP being approached by  11 persons potentially connected to Operation  12 Delhi to make allegations of professional  13 misconduct against Mr McGrail. You say,  14 "This was a discussion that I had had with  15 the Governor and was related to information  16 that had come to my attention from a  17 confidential source regarding the suggestion  18 that three named individuals who were ex  19 police officers had information that were  20 possibly connected to Hassans Law Firm and  21 Operation Delhi that were intending to make  22 allegations of professional misconduct  23 against Mr McGrail. I shared the  24 information with the Governor because I  25 thought it may be relevant and simply to alert</p> <p style="text-align: center;">Page 126</p>	<p>1 "On the 19th of February 2021 I received  2 information from the Commissioner of  3 Police, Richard Ullger, concerning a  4 suspected conspiracy against me. This  5 related to two police officers who were  6 subject to investigation for corrupt/improper  7 practices who were off work on sick leave.  8 Because of their extended period of sickness  9 the 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 in to half pay  13 and that their futures would be safeguarded  14 by way of being provided alternative jobs in  15 the Environmental Protection Agency.  16 However, in exchange to being helped out, it  17 was expected from these officers that they  18 had to come forward with information  19 (whether true or not) about me to maliciously  20 try and tarnish my reputation before or  21 during the inquiry. Mr Ullger explained that  22 the person offering the two officers these  23 assurances was James Levy, thought it was  24 also strongly believed that there was  25 involvement from No 6 Convent Place given</p> <p style="text-align: center;">Page 128</p>

32 (Pages 125 to 128)

<p>1 that the RGP had been requested NOT to put 2 these officers on half pay by an official at No 3 6 Convent Place who deals with industrial 4 relations, namely Mr Michael Crome." Are 5 these officers two of the three officers who 6 you referred to in your statement or are they 7 different individuals? 8 <b>A. They are.</b> 9 Q. They are. Has the RGP investigated 10 these allegations? 11 <b>A. So the fact that I have reported in my 12 statement the fact that they gave statements 13 in support of a judicial review, the mere fact 14 that they gave false evidence is the time that 15 when we investigated it and subsequently 16 arrested them, and they have been charged 17 and they are before the courts.</b> 18 Q. If we can now look at paragraph 159, 19 please, you say -- Mr McGrail says, "On 20 22nd October 2021, I received disturbing 21 information concerning an ex-police 22 inspector of the RGP. This information was 23 not dissimilar in nature to the one provided 24 by CoP Richard Ullger relating to the two 25 officers who were being asked to conspire</p> <p style="text-align: center;">Page 129</p>	<p>1 of the three officers you mentioned in your 2 statement? 3 <b>A. Yes, he is.</b> 4 Q. And has that allegation also been 5 investigated? 6 <b>A. As I have just reported, yes it is through 7 the courts. They have been arrested, they 8 have been charged and they are through the 9 courts.</b> 10 Q. Since becoming Commissioner of Police, 11 how many police officers have left the RGP 12 pursuant to job offers made by the Chief 13 Minister? 14 <b>A. 22 officers.</b> 15 Q. What ranks were these police officers? 16 <b>A. There was one inspector, seven sergeants 17 and 14 constables.</b> 18 Q. Were any of these officers awaiting 19 disciplinary proceedings? 20 <b>A. So, four officers were currently going 21 through a discipline process and one 22 constable was being criminally investigated.</b> 23 Q. If an officer leaves the RGP with pending 24 disciplinary proceedings, what happens to 25 those proceedings?</p> <p style="text-align: center;">Page 131</p>
<p>1 against me. The ex-inspector is in fact a 2 close acquaintance of these two other officers 3 previously referred to. They had previously 4 worked in a same small unit in the RGP and 5 now, after leaving the RGP, worked together 6 in the Environmental Protection Agency. 7 The said ex-inspector had to leave the RGP 8 on quite bad terms following his arrest for 9 domestic violence and his subsequent 10 internment to rehabilitate for Cocaine 11 addiction. As mentioned earlier, he was 12 offered a post in the Environmental 13 Protection Agency. The information 14 suggested that the ex-inspector had been 15 offered a cash reward by James Levy in 16 exchange for information that could be used 17 against me. When this reward had not been 18 forthcoming and having committed to 19 making a statement or provide information 20 against me, he had complained but had been 21 assured a promotion to Executive Officer or 22 Higher Executive Officer within the 23 Environmental Protection Agency in lieu of 24 the cash reward as this was easier to mask 25 under the circumstances." Is this officer one</p> <p style="text-align: center;">Page 130</p>	<p>1 <b>A. So unfortunately, like any other 2 employment, the RGP does not have any 3 recourse to be able to pursue any discipline 4 matters when an individual leaves the 5 organisation and we are hoping to change 6 that and it is part and parcel of the work that 7 we are doing together with the Gibraltar 8 Police Authority to ensure that, like similar 9 to our colleagues in the United Kingdom, an 10 in order to try and have an element of trust 11 for the public, in particular to matters of 12 discipline, that this is included in our 13 discipline regulations; but as they stand at 14 this present moment in time, no.</b> 15 Q. Do you know of any officers being 16 offered monetary payments? 17 <b>A. Without going into too much detail, yes.</b> 18 Q. And the officers who left the RGP, who 19 are they now employed with, as far as you 20 are aware? 21 <b>A. The government service.</b> 22 Q. All 22 of them? 23 <b>A. I believe there -- so there are 18 that have 24 transferred into -- not transferred. They have 25 resigned from the Royal Gibraltar Police and</b></p> <p style="text-align: center;">Page 132</p>

<p>1 <b>they have been employed by the government</b></p> <p>2 <b>service and four officers retired. Are you</b></p> <p>3 <b>aware that any of those officers have sought</b></p> <p>4 <b>to give evidence to the inquiry?</b></p> <p>5 <b>A. Yes.</b></p> <p>6 Q. Are you able to say how many?</p> <p>7 <b>A. I think all of them.</b></p> <p>8 Q. And has any of their evidence been</p> <p>9 deemed relevant to this enquiry?</p> <p>10 <b>A. I think there is only one person.</b></p> <p>11 Q. Finally, I want to ask you some questions</p> <p>12 about Mr McGrail's day book, Commissioner</p> <p>13 Ullger. If we can have the third affidavit of</p> <p>14 Assistant Commissioner Cathal Yeats on</p> <p>15 screen please. This is an affidavit produced</p> <p>16 by Mr Yeats about the RGP's search for Mr</p> <p>17 McGrail's day book. Have you personally</p> <p>18 been involved in that search?</p> <p>19 <b>A. I have, yes.</b></p> <p>20 Q. What has your role entailed?</p> <p>21 <b>A. Well, just essentially searching my office</b></p> <p>22 <b>and the office of the personal assistant who</b></p> <p>23 <b>sits just next door to me.</b></p> <p>24 Q. Does the RGP have a police for the</p> <p>25 retention of day books?</p> <p style="text-align: center;">Page 133</p>	<p>1 senior officer expect to fill in a year, in your</p> <p>2 experience?</p> <p>3 <b>A. So there is a difference between day</b></p> <p>4 <b>books and pocket books. So pocket books</b></p> <p>5 <b>are usually used by officers up the rank of</b></p> <p>6 <b>inspector, and then day books are used by</b></p> <p>7 <b>managing officers. It can literally be</b></p> <p>8 <b>absolutely everything. You have got people</b></p> <p>9 <b>that record a lot of information. You have</b></p> <p>10 <b>got people that do not record enough</b></p> <p>11 <b>information, so it literally can be a good</b></p> <p>12 <b>number.</b></p> <p>13 Q. So can you just give an indication as to</p> <p>14 the different ends of the spectrum? One or</p> <p>15 two a year?</p> <p>16 <b>A. Oh, in a year. So, if it is a day book, it</b></p> <p>17 <b>would be one a year usually.</b></p> <p>18 Q. I see. So it will just have to --</p> <p>19 <b>A. Sorry, yes.</b></p> <p>20 Q. How many years would you expect an</p> <p>21 officer to retain day books for?</p> <p>22 <b>A. Post-service?</b></p> <p>23 Q. Post a year?</p> <p>24 <b>A. So what usually happens is that officers</b></p> <p>25 <b>have been keeping their pocket books and</b></p> <p style="text-align: center;">Page 135</p>
<p>1 <b>A. We do now.</b></p> <p>2 Q. When was -- sorry.</p> <p>3 <b>A. I am sorry, my apologies. So part and</b></p> <p>4 <b>parcel of the work that we did for the HMIC</b></p> <p>5 <b>recommendations was implement an</b></p> <p>6 <b>information management and vetting unit</b></p> <p>7 <b>which addresses and deals with all the</b></p> <p>8 <b>management of police information and this</b></p> <p>9 <b>has been a work in progress. We have</b></p> <p>10 <b>managed to resource a department with an</b></p> <p>11 <b>inspector, sergeant and a number of support</b></p> <p>12 <b>staff and we are starting to do the work that</b></p> <p>13 <b>we should have been doing a couple of years</b></p> <p>14 <b>ago.</b></p> <p>15 Q. When was the day book retention policy,</p> <p>16 or whatever policy deals with that, when was</p> <p>17 that implemented?</p> <p>18 <b>A. A couple of months ago but there have</b></p> <p>19 <b>been other policies. So the whole</b></p> <p>20 <b>management of police information, that has</b></p> <p>21 <b>happened before that, but the day books, how</b></p> <p>22 <b>we deal with day books and the process of</b></p> <p>23 <b>how we deal with it, this happened a couple</b></p> <p>24 <b>of months ago.</b></p> <p>25 Q. Roughly how many day books might a</p> <p style="text-align: center;">Page 134</p>	<p>1 <b>their day books because they make a lot of</b></p> <p>2 <b>reference to them, particularly investigating</b></p> <p>3 <b>crimes but there is an expectation that they</b></p> <p>4 <b>now hand them over to our information</b></p> <p>5 <b>management and vetting unit. So during a</b></p> <p>6 <b>reasonable time when they no longer need</b></p> <p>7 <b>their pocket book or their day book, it gets</b></p> <p>8 <b>handed in to the information management</b></p> <p>9 <b>and vetting unit.</b></p> <p>10 Q. What was the practice before this?</p> <p>11 <b>A. Officers would just keep their own books.</b></p> <p>12 Q. Mr McGrail gave evidence to the inquiry</p> <p>13 saying that he had handed his day book in, or</p> <p>14 left it with the RGP. Are you aware who he</p> <p>15 left his day book with when he left?</p> <p>16 <b>A. No, I am not, not.</b></p> <p>17 Q. Has the RGP attempted to engage with</p> <p>18 Mr McGrail about locating the day book?</p> <p>19 <b>A. I understand in conversations with the</b></p> <p>20 <b>Assistant Commissioner, who was dealing</b></p> <p>21 <b>with our lawyer, that it was going to be done</b></p> <p>22 <b>through the lawyers.</b></p> <p>23 Q. Did Mr McGrail leave any other papers</p> <p>24 behind?</p> <p>25 <b>A. He left papers which were linked to his</b></p> <p style="text-align: center;">Page 136</p>

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<p>1 <b>role as Commissioner of Police, so he would</b>  2 <b>have been part of the child protection</b>  3 <b>committee meetings, he would have been</b>  4 <b>part of the Gibraltar Contingency Council</b>  5 <b>meetings, very sensitive documents. Those</b>  6 <b>were handed over to me, yes.</b>  7 Q. To you directly?  8 <b>A. Correct. Sorry, not to me directly, left in</b>  9 <b>his office and when I took command, which</b>  10 <b>was a month later -- so even though I became</b>  11 <b>the Acting Commissioner when Mr McGrail</b>  12 <b>left us, I did not take -- I did not go into his</b>  13 <b>office until I was actually promoted to</b>  14 <b>Commissioner.</b>  15 Q. What has happened to the papers that he  16 left behind?  17 <b>A. So papers which are akin to the role of</b>  18 <b>Commissioner and I have continued to use</b>  19 <b>and have built upon because of the different</b>  20 <b>strategic meetings that I have needed to</b>  21 <b>attend, but I have had not sight of his day</b>  22 <b>books.</b>  23 Q. Mr McGrail said in evidence that he  24 retained some papers that he had taken from  25 New Mole House before the RGP attended</p> <p style="text-align: center;">Page 137</p>	<p>1 <b>you. The fact of the matter is that the Royal</b>  2 <b>Gibraltar Police is supported by the</b>  3 <b>Government of Gibraltar's Information</b>  4 <b>Technology and Logical Department, the</b>  5 <b>ITLD, they are the people that manage all our</b>  6 <b>IT for us.</b>  7 Q. At present, do you have any information  8 as to what happened to Mr McGrail's devices  9 from ITLD?  10 <b>A. No. No, I do not, none whatsoever.</b>  11 Q. And does the RGP hold images of those  12 devices?  13 <b>A. No.</b>  14 Q. Thank you, Mr Ullger, I have no further  15 questions.  16 MR WAGNER: Sir, I may or may not have  17 questions arising. I know it is 1:05 and I do  18 not want to delay everybody. However, I  19 would like to take instructions on a couple of  20 points over the adjournment if possible.  21 THE CHAIRMAN: Are you contemplating  22 having questions?  23 SIR CARUANA: I am. I think I have got  24 about 10 minutes' worth, 10, 15 minutes'  25 worth, that sort of time.</p> <p style="text-align: center;">Page 139</p>
<p>1 his premises and that he destroyed some of  2 those paper documents. Has the RGP  3 ascertained what those documents which  4 were destroyed were?  5 <b>A. Not that I know of, no.</b>  6 Q. So is the RGP's current position that  7 notwithstanding Mr McGrail's -- the  8 circumstances of -- the exceptional  9 circumstances of Mr McGrail's departure,  10 that his day book cannot be located at  11 present?  12 <b>A. It would appear to be the case, yes. We</b>  13 <b>are making every effort possible to try and</b>  14 <b>locate them.</b>  15 Q. In terms of his devices, he had a desktop  16 and potentially had a laptop. Have those  17 devices been located or any image of them?  18 <b>A. Again, I think this is a piece of work that</b>  19 <b>the Assistant Commissioner has been doing</b>  20 <b>and I think we are going to be writing to you</b>  21 <b>in the form of an affidavit to be able to</b>  22 <b>clarify matters but I know that the Assistant</b>  23 <b>Commissioner has been doing a lot of work</b>  24 <b>to try and establish, or try and trace things</b>  25 <b>like computers and laptops and what have</b></p> <p style="text-align: center;">Page 138</p>	<p>1 MR SANTOS: I think if it is going to be -- it  2 sounds like it is going to be at least 15  3 minutes, then perhaps we should take the  4 break.  5 THE CHAIRMAN: Yes, I think that is  6 probably what we ought to do.  7 MR SANTOS: It is entirely in your hands  8 whether you want to make it a shorter lunch  9 or whether you wanted to --  10 THE CHAIRMAN: I am entirely in  11 everybody else's hands but it rather depends  12 on how long you are going to make your  13 decision, which you probably do not know.  14 MR WAGNER: I do not. There are a couple  15 of points that I do want to discuss.  16 THE CHAIRMAN: Okay, well, we will  17 break for lunch.  18 (13.06)  19 (The short adjournment)  20 (14.04)  21 MR SANTOS: I just have one further  22 question to clarify some of the evidence of  23 this morning. At one point I asked you about  24 three officers who were under investigation  25 and who you gave evidence confirming that</p> <p style="text-align: center;">Page 140</p>

<p>1 they were in fact charged and the matter was 2 being dealt with by the court. There were 3 two officers who you dealt with first of all 4 and you said that they had been charged in 5 respect of the judicial review and then there 6 was an inspector and I just wanted to clarify, 7 you said that that person had also been 8 charged. Is that in relation to the judicial 9 review as well? 10 <b>A. Correct.</b> 11 MR SANTOS: Thank you. 12 Questioned by MR WAGNER KC 13 MR WAGNER: Thank you, good afternoon, 14 commissioner Ullger ... Ullger. 15 <b>A. As you please.</b> 16 Q. Excuse me. No, as you please, it is your 17 name. As somebody whose surname is 18 mispronounced pretty much 50 per cent of 19 the time I really want to get it right. 20 So just in terms of the job offers, I think you 21 said that 22 officers had left, 18 were in 22 government employment and four had 23 retired. Is that right? 24 <b>A. Correct.</b> 25 Q. Yes. How many RGP officers are there</p> <p style="text-align: center;">Page 141</p>	<p>1 <b>A. Correct.</b> 2 Q. That is almost 20 per cent. 3 <b>A. Yes.</b> 4 Q. Yes. And you say, you refer to 5 whistle-blowers, were those individuals 6 through the formal RGP processes deemed to 7 be whistle-blowers? 8 <b>A. There was no formal process with the 9 Royal Gibraltar Police.</b> 10 Q. No. Sir, if you do not mind, I am going 11 to refer to them as the officers who were 12 given job offers. Had anything similar to that 13 ever happened before in your knowledge? 14 <b>A. Not that I know of, no.</b> 15 Q. And it must have been a very challenging 16 situation for the RGP. 17 <b>A. It was very challenging because the 18 organisation was going through change, 19 a change process, because of HMIC. We 20 were expected to deliver on the HMIC 21 inspection. Um, we were expected to open 22 a new department to deal with those HMIC 23 recommendations, but then at the same time 24 we had a massive gap in resilience and we 25 were constantly challenged by the Police</b></p> <p style="text-align: center;">Page 143</p>
<p>1 in total? 2 <b>A. Our complement is always around 250, 3 but we are never 250 because we are always 4 shy of the 250 because people leave the 5 organisation, retire and move on to 6 somewhere else. So we are never at the 250. 7 And that is police officers, yes.</b> 8 Q. So 22 would be a pretty significant 9 proportion of those just under 250. 10 <b>A. Massive.</b> 11 Q. Massive. Close to 10 per cent. 12 <b>A. Um, not close to 10 per cent, no.</b> 13 Q. Okay, well, maybe. 14 <b>A. But when you take into ... so, there is 15 a figure that we have in our organisation 16 when we were managing the whistle-blowers 17 and the individuals leaving our organisation 18 and it always came to a fifth. When we had 19 ... at our worst point in our organisation when 20 we were managing the whistle-blowers 21 leaving our organisation and other leavers, 22 genuine other leavers being officers retiring 23 or moving somewhere else, it was almost 24 a fifth of our organisation.</b> 25 Q. It was almost a fifth of the organisation?</p> <p style="text-align: center;">Page 142</p>	<p>1 <b>Federation chairman in that regard.</b> 2 Q. Sorry, I did not quite get that. Did you 3 say a massive gap in resilience? 4 <b>A. Correct. When you talk about 40, at our 5 worst it was 42 officers.</b> 6 Q. Sorry, what was 42 officers? 7 <b>A. When you take the global picture, the 8 global number, you are talking about 9 whistle-blowers, you are talking about police 10 officers that ... other police officers that 11 retire, other people that move over to 12 another --</b> 13 Q. Sorry, I understand now. So the figure 14 was 22. If you add that -- 15 <b>A. Sorry, you asked me about the impact it 16 had on the organisation and I gave you what 17 was at our worst, which was 42 officers at 18 the same time.</b> 19 Q. So you reached the 20 per cent figure by 20 adding the 22 to what you might think of as 21 the usual (inaudible) officers. 22 <b>A. Correct.</b> 23 Q. Yes. 24 <b>A. Because don't forget as well, there is 25 a delay in recruitment because the</b></p> <p style="text-align: center;">Page 144</p>

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<p>1 <b>organisation goes through a very ... (pause).</b>  2 Q. Sorry, did someone say something?  3 SIR PETER CARUANA: Sir Peter coughed.  4 That is all that happened.  5 MR WAGNER: Excuse me. You were  6 talking about delay in recruitment.  7 <b>A. Correct, so when you are looking at</b>  8 <b>recruiting people, you go through a process</b>  9 <b>and the Royal Gibraltar Police is known to</b>  10 <b>have a very rigid recruitment process where</b>  11 <b>we go out to try to attract people. We then</b>  12 <b>interview them, going through the interview</b>  13 <b>stages.</b>  14 THE CHAIRMAN: Yes, we need not go  15 down that avenue.  16 <b>A. I was just trying to explain, because of</b>  17 <b>the gap, yes.</b>  18 MR WAGNER: Were Hassans involved in  19 the job offers?  20 <b>A. I don't know.</b>  21 Q. You do not know. Disciplinary charges,  22 you say that there were some officers who  23 were charged at the point they left.  24 <b>A. No, I said that they were being</b>  25 <b>investigated.</b></p> <p style="text-align: center;">Page 145</p>	<p>1 <b>A. I have no idea. Those are questions that</b>  2 <b>you may have to pose other people, but I just</b>  3 <b>do not have any idea what was happening</b>  4 <b>with people from my workforce.</b>  5 Q. And you do not know if there were  6 vacancies that were being filled.  7 <b>A. No.</b>  8 Q. And if the government departments had  9 contacted others in the RGP who may have  10 known about disciplinary issues or the  11 calibre of the individuals, would you have  12 been told that?  13 <b>A. I think so, because the whole</b>  14 <b>whistle-blower issue in our organisation was</b>  15 <b>being dealt with at the command level</b>  16 <b>because of the impact it was having on our</b>  17 <b>organisation in respect of resilience.</b>  18 Q. Yes. Do you know whether any of the 22  19 officers were providing critical evidence  20 about Mr McGrail to this Inquiry?  21 <b>A. That would be up to the chairman to</b>  22 <b>decide, not me. But, um --</b>  23 THE CHAIRMAN: The word "critical" is  24 ambiguous.  25 MR WAGNER: Sorry, sir. Were they</p> <p style="text-align: center;">Page 147</p>
<p>1 Q. Investigated, yes, investigated. So they  2 were being investigated and the investigation  3 ceased when they left.  4 <b>A. Correct.</b>  5 Q. The officers who moved to government  6 departments, did those government  7 departments ever come to you to ask for  8 details of disciplinary investigations against  9 those officers?  10 <b>A. Mr Wagner said that there was no</b>  11 <b>communication whatsoever with the</b>  12 <b>government service with Royal Gibraltar</b>  13 <b>Police in respect of the whistle-blowers,</b>  14 <b>nothing.</b>  15 Q. They did not ask for references?  16 <b>A. Nothing.</b>  17 Q. Do you have any idea how the  18 government departments would have known  19 about the calibre of the individuals that they  20 were taking on?  21 <b>A. No idea.</b>  22 Q. Do you know if they were interviewed?  23 <b>A. No.</b>  24 Q. You do not know or you do not think  25 they were?</p> <p style="text-align: center;">Page 146</p>	<p>1 making criticisms of Mr McGrail?  2 <b>A. Some were, yes.</b>  3 Q. Yes. And do you know if similar job  4 offers were made to officers who were giving  5 supported evidence for Mr McGrail?  6 <b>A. No.</b>  7 Q. You do not know. Were you offered  8 a job when you gave evidence to this  9 Inquiry?  10 <b>A. No, I wasn't.</b>  11 Q. As far as you were aware, were any of  12 Mr Field, Mr Richardson or Mr Yeats offered  13 jobs when they gave evidence to this  14 Inquiry?  15 <b>A. I don't think they were, no.</b>  16 Q. Were the Operation Delhi investigation  17 team offered jobs if their positions became  18 untenable when they were investigating  19 allegations against Mr Levy?  20 <b>A. No.</b>  21 Q. Do you know of any other jobs that were  22 offered apart from these 22?  23 <b>A. No.</b>  24 Q. I just want to take you to C6932, please.  25 (Pause). If we can just go a little bit further</p> <p style="text-align: center;">Page 148</p>

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<p>1 down. This is a document entitled: "9 2 February". Just go a little bit further down 3 than that. Do you recognise this document? 4 Obviously please do not say the name of the 5 individual whose name is redacted. 6 <b>A. I can't remember seeing it, but I may have 7 seen it.</b> 8 Q. Is this the kind of assurance letter which 9 was provided to the 22 individuals as far as 10 you are aware? 11 <b>A. It looks like it.</b> 12 Q. And they are signed by Mr Chrome and 13 the Chief Minister. It says there: 14 "X is not yet of retirement age and 15 consequently if their position becomes 16 untenable would require redeployment into 17 the wider public sector through employment 18 with the Gibraltar Development 19 Corporation." 20 And then: 21 "If this were to become the case, approval is 22 sought to commit to offering the following 23 terms and conditions [and then there is] the 24 grade 4 level, current RGP salary scale, 25 retention of further allowance, retention of</p> <p style="text-align: center;">Page 149</p>	<p>1 that the RGP is an organisation with limited 2 resources. Is that right? 3 <b>A. We have the resources available to us.</b> 4 Q. Yes. 5 <b>A. Every Commissioner wants more 6 resources.</b> 7 Q. Yes. 8 <b>A. Every Chief Constable does the same. 9 But yes.</b> 10 Q. Yes. And you said in your evidence that 11 HMIC comes in and makes a lot of asks of 12 you. Unless you receive additional resources 13 you as Commissioner have to decide what to 14 prioritise. Is that fair? 15 <b>A. Yes.</b> 16 Q. And if you need to create different 17 departments, because that is what HMIC had 18 recommended, that means potentially, unless 19 you have been given additional resources, 20 that might mean rebalancing other parts of 21 the RGP. 22 <b>A. Correct.</b> 23 Q. Is that fair as well? 24 <b>A. Correct.</b> 25 Q. And you have said that you did not have</p> <p style="text-align: center;">Page 151</p>
<p>1 current pension rights." 2 Just focusing on the point in paragraph 2 3 where it says: "If their position becomes 4 untenable", did the Chief Minister's office 5 ever contact the RGP to ask for information 6 about whether an officer's position had 7 become untenable? 8 <b>A. No.</b> 9 Q. Was there any process in place, as far as 10 you were aware, for the Chief Minister to 11 investigate that question? 12 <b>A. There was no --</b> 13 MR CRUZ: I am sorry to rise without giving 14 the counsel and the Inquiry advance notice. 15 We run a real risk of running into ongoing 16 criminal investigations and I am just 17 concerned with the line of questioning. I just 18 raise that because it is important that I do. 19 MR WAGNER: I will stop. If that 20 short-circuits it, I will stop this line of 21 questioning. That is all I wanted to ask 22 anyway and I will proceed. 23 The second area, and in fact the only other 24 area I wanted to ask you about, was the 25 HMIC report. I am sure you would agree</p> <p style="text-align: center;">Page 150</p>	<p>1 any more resources fundamentally than 2 Mr McGrail did. Is that right? 3 <b>A. Correct.</b> 4 Q. You said that in the 18 months that he 5 had available to him to implement the 6 findings of the previous report, one of 7 Mr McGrail's focuses was maintaining the 8 levels of frontline policing and that was 9 potentially at the expense of implementing 10 some of the recommendations. Is that fair? 11 <b>A. Absolutely.</b> 12 Q. Did you hear any points, either whilst he 13 was in the process of leaving or after he left, 14 that Mr McGrail was criticised in May and 15 June by the Chief Minister or the Governor 16 about the HMIC report? 17 <b>A. No.</b> 18 Q. No. Did you have to make difficult 19 decisions about where to allocate resources 20 to ensure that the HMIC when they returned 21 could conclude the RGP had implemented -- 22 <b>A. Extremely difficult.</b> 23 Q. -- their report? Extremely difficult. 24 Were any frontline officers relocated as 25 a result of decisions you had to make?</p> <p style="text-align: center;">Page 152</p>

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<p>1 <b>A. So, it was ...as a result of an impact, not</b>  2 <b>only on HMIC, but because of the</b>  3 <b>whistleblowers that we ended up, so together</b>  4 <b>with the Assistant Commissioner we created</b>  5 <b>an operation to deal with that resilience of</b>  6 <b>GAP and we closed certain departments</b>  7 <b>down which were not high-risk areas for us.</b>  8 <b>(14.17)</b>  9 MR WAGNER: Such as what?  10 <b>A. I wouldn't really want to say because it</b>  11 <b>has an impact on police con --</b>  12 Q. Do not say --  13 <b>A. - trust and the way we do business.</b>  14 Q. That is fine.  15 <b>A. But certainly what it was, it was the areas</b>  16 <b>where we don't have high risks.</b>  17 Q. Does that mean high risks of damage to  18 individuals or --  19 <b>A. No. Crime, safety, security of Gibraltar.</b>  20 Q. Yes. Was there a consequent impact on  21 the visibility of policing in Gibraltar as a  22 result?  23 <b>A. Yes.</b>  24 Q. Was it a positive or negative impact?  25 <b>A. Negative.</b></p> <p style="text-align: center;">Page 153</p>	<p>1 Q. Would you agree that different  2 commissioners might make different  3 decisions which, nonetheless, are part of a  4 sort of reasonable range of responses?  5 <b>A. Yes.</b>  6 Q. Looking back on why Mr McGrail  7 decided to allocate resources in the way that  8 he did in those 18 months, do you look back  9 and say that was definitely the wrong  10 decision?  11 <b>A. No. Not at all.</b>  12 Q. Sorry, just two small points about the  13 HMIC report and then I am done. B1556,  14 please. The first line of the overview of the  15 report, "Gibraltar is a relatively safe place  16 and the Royal Gibraltar Police offers a good  17 level of service to the public". Would you  18 say that that conclusion that the RGP offered  19 a good level of service to the public was an  20 important one?  21 <b>A. I believe so, yes.</b>  22 Q. At B1580. If we can go to the bottom of  23 there - sorry, not to the bottom of the box;  24 the leadership style and culture - there are a  25 number of points which are critical, but there</p> <p style="text-align: center;">Page 155</p>
<p>1 Q. So, people saw less police on the streets?  2 <b>A. From both externally and internally from</b>  3 <b>the federation, Mr Morello himself.</b>  4 Q. Since Mr McGrail left, has the crime  5 level gone up?  6 <b>A. So, that's - that is a very difficult</b>  7 <b>question to answer because our crime</b>  8 <b>recording has changed --</b>  9 Q. Yes.  10 <b>A. -- considerably so it would be difficult to</b>  11 <b>know whether crime has gone up or not. If</b>  12 <b>you understand what I am saying because</b>  13 <b>crime is recorded differently, so now we</b>  14 <b>have more victims of crimes because of the</b>  15 <b>way we record it. So, it elevates your crime.</b>  16 Q. Well, that is one interpretation of it, is  17 that fair?  18 <b>A. Correct.</b>  19 Q. So, in the latest GPA reports which I  20 think was '21 and '22, the levels - it said the  21 levels had gone up.  22 <b>A. Yes.</b>  23 Q. Yes. Would you agree that none of these  24 decisions and balances are straightforward?  25 <b>A. None at all.</b></p> <p style="text-align: center;">Page 154</p>	<p>1 is a final line, "... that said on the whole we  2 found a work force that was professional,  3 committed and enthusiastic about their work  4 and the force they worked in". Would you  5 say that that was a finding that was important  6 in the context of the report?  7 <b>A. Absolutely.</b>  8 Q. Do you disagree with either of those  9 findings?  10 <b>A. No. Not at all.</b>  11 <b>(Short discussion aside)</b>  12 MR WAGNER: I am very sorry, Mr Ullger.  13 Can we just have on screen the email that Mr  14 Ullger, or the RGP disclosed in the last  15 couple of days. the 2023 email.  16 MALE SPEAKER: (inaudible)  17 MR WAGNER: I think so, yes. I do not  18 have a - I do not think there is a reference.  19 That is it, yes. (To the witness) There is a  20 line that you were not taken to; I just want to  21 ask you about it. It is in the second  22 paragraph at the end. It says, "The negativity  23 that festers among the chairman and the  24 secretary is palpable in everything they do,  25 and I am concerned they don't represent you</p> <p style="text-align: center;">Page 156</p>

<p>1 all, but others". What did you mean by 2 "others"?</p> <p>3 <b>A. A lot of the focus was made on the 4 whistleblowers by the Federation, and I felt 5 that they were protecting the whistleblowers 6 more than they were protecting the whole of 7 the workforce, and I say this because the 8 Royal Gibraltar Police was suffering 9 immensely of the resilience gap that we had. 10 So, where we wanted to try and attract people 11 to come back and work for us in respect for 12 the whistleblowers to help us in respect of 13 the gap, I felt that the federation were hurting 14 us more.</b></p> <p>15 Q. Thank you.</p> <p>16 MR NEISH: Just a question for Mr Ullger.</p> <p>17 <b>A. Yes, sir.</b></p> <p>18 MR NEISH: You described earlier this 19 morning, your relationship with His 20 Excellency the Governor. Would you 21 describe your relationship with the Gibraltar 22 Police Authority?</p> <p>23 <b>A. I have a very good working relationship 24 with Mr Joey Britto. We have always - I 25 have always reached out to him when I have</b></p> <p style="text-align: center;">Page 157</p>	<p>1 <b>A. For a month, sir, yes.</b></p> <p>2 Q. Immediately?</p> <p>3 <b>A. Correct.</b></p> <p>4 Q. By April of - that is June 2020 then, and 5 by April 2022, you were inspected again by 6 HMIC.</p> <p>7 <b>A. That is correct, sir.</b></p> <p>8 Q. They found that you had complied with 9 all the outstanding 2016 inspection report.</p> <p>10 <b>A. Bar three, that still were partially 11 implemented, all had been implemented. 12 Yes, sir.</b></p> <p>13 Q. Yes. So, you were able to do it in one 14 year and ten months?</p> <p>15 <b>A. Yes, we did.</b></p> <p>16 Q. Did you get additional resources to do 17 that?</p> <p>18 <b>A. No, we did not.</b></p> <p>19 Q. Okay. Again, just to give you - moving 20 on. Sorry, moving on from there now. Just 21 to give you an opportunity by way of 22 memory triggering - if it does, and indeed if 23 it helps - you said today - in fact, I was 24 going to ask you to clarify paragraph 51 of 25 your witness statement to see if it meant that,</p> <p style="text-align: center;">Page 159</p>
<p>1 <b>needed to discuss with him matters or critical 2 incidents or resourcing issues. Very 3 supportive.</b></p> <p>4 MR NEISH: Thank you.</p> <p>5 Cross-examined by SIR PETER CARUANA</p> <p>6 SIR PETER CARUANA: Good afternoon, 7 Commissioner.</p> <p>8 <b>A. Hello, Sir Peter.</b></p> <p>9 Q. Commissioner, just to start where my 10 learned friend Mr Wagner finished, just to 11 separate, or to give you the opportunity to 12 separate, if that is your position, the question 13 of whistleblowing from HMIC 14 implementation - report implementation. Is 15 it your evidence that policing in Gibraltar 16 suffered and crime rose because of the 17 resources that you had to employ to comply 18 or to implement the HMIC arrears of --</p> <p>19 <b>A. No, sir. No.</b></p> <p>20 Q. You meant because of the whistle 21 blowing department?</p> <p>22 <b>A. Correct. Yes.</b></p> <p>23 Q. So, you took over... When Mr McGrail 24 retires, you took over on an acting basis, I 25 suppose in June.</p> <p style="text-align: center;">Page 158</p>	<p>1 but you clarified it yourself when you said 2 that you --</p> <p>3 THE CHAIRMAN: You have not asked him 4 a question.</p> <p>5 SIR PETER CARUANA: -- you had no - I 6 beg your pardon, sir?</p> <p>7 THE CHAIRMAN: I have got a bit lost in 8 the question.</p> <p>9 SIR PETER CARUANA: I have not asked a 10 question.</p> <p>11 THE CHAIRMAN: I appreciate that. That 12 is why (inaudible due to over-speaking)</p> <p>13 SIR PETER CARUANA: Sorry?</p> <p>14 THE CHAIRMAN: That is precisely my 15 point.</p> <p>16 SIR PETER CARUANA: Well, I am about 17 to start asking the question. I am giving him 18 some back ground information --</p> <p>19 THE CHAIRMAN: Yes, but I will not -</p> <p>20 SIR PETER CARUANA: I will get to the 21 background information -</p> <p>22 THE CHAIRMAN: Everyone loses the 23 thread in the course of these long 24 dissertations.</p> <p>25 SIR PETER CARUANA: -- quite quickly.</p> <p style="text-align: center;">Page 160</p>

40 (Pages 157 to 160)

<p>1 Let me just ask you this. This morning you 2 said that you had no idea why Mr Pyle had 3 lost confidence in Mr McGrail. 4 <b>A. That is correct, sir.</b> 5 Q. You also said that you did not meet 6 anyone else after that. Do you recall that? 7 <b>A. Not --</b> 8 Q. You did not meet anyone else after Mr 9 McGrail's departure to discuss that. 10 <b>A. Sorry, I think I answered it in respect of</b> 11 <b>Mr Pyle, but I saw Mr Pyle, and I did not see</b> 12 <b>anyone after Mr Pyle.</b> 13 Q. Right, after the meeting -- 14 <b>A. With Mr Pyle.</b> 15 Q. -- in his office. 16 <b>A. Correct. So, basically what I was saying</b> 17 <b>is that I would carry on as Acting</b> 18 <b>Commissioner in an interim.</b> 19 Q. Okay. Do you have any recollection of a 20 meeting with Mr Pyle at the waterfront? 21 <b>A. Yes.</b> 22 Q. Shortly after Mr McGrail's departure? 23 <b>A. No. It was two years after Mr McGrail -</b> 24 <b>if I remember correctly, it was round</b> 25 <b>Christmas time two years.</b></p> <p style="text-align: center;">Page 161</p>	<p>1 reasons why he had lost confidence in Mr 2 McGrail. 3 <b>A. Never, sir.</b> 4 Q. Okay. Whistleblowing. Again, an 5 opportunity to clarify in case you were led by 6 my learned friend Mr Santos and had not 7 focused on the wording of his question. My 8 learned friend asked you a question in which 9 you referred to job offers made by the Chief 10 Minister, and you confirmed there were 22. 11 Do you remember that? 12 <b>A. Yes.</b> 13 Q. Were you answering the precise question, 14 in other words is it your evidence that to your 15 knowledge 22 job offers were made by the 16 Chief Minister personally? 17 <b>A. No. And this is in the wider context, Sir</b> 18 <b>Peter, this is whistleblowers leaving the</b> 19 <b>Royal Gibraltar Police into the government</b> 20 <b>service.</b> 21 Q. I understand. That is why I -- 22 <b>A. Yes, okay.</b> 23 Q. ... offered you the opportunity to clarify 24 your answer, because it was contained in the 25 question, the reference to the Chief Minister</p> <p style="text-align: center;">Page 163</p>
<p>1 Q. So you do not recall a meeting with Mr 2 Pyle in the Waterfront in which he explained 3 to you his reasons for losing confidence in 4 Mr McGrail? 5 <b>A. No. No, so the - if I can tell you what the</b> 6 <b>conversation was about?</b> 7 Q. If you wish. 8 <b>A. So essentially when I became the</b> 9 <b>Commissioner I took over Mr McGrail's</b> 10 <b>remaining two years, and then when my two</b> 11 <b>years were up, because we were going</b> 12 <b>through the HMIC inspection, his Excellency</b> 13 <b>the Governor and Chairman of the Gibraltar</b> 14 <b>Police Authority decided that I would be</b> 15 <b>given a one year extension to see us through</b> 16 <b>the HMIC inspection. It was at that stage</b> 17 <b>that Mr Pyle wanted to meet up with me</b> 18 <b>because he still believed that the vacancy</b> 19 <b>should be open to UK Police serving officers</b> 20 <b>and that Mr Pyle was going to be made it</b> 21 <b>known to his Excellency, and he felt that he</b> 22 <b>needed to tell me about it, and that's what we</b> 23 <b>spoke about.</b> 24 Q. Okay. So your evidence is that Mr Pyle 25 has never met with you to explain to you his</p> <p style="text-align: center;">Page 162</p>	<p>1 was contained in the question, not in your 2 answer, which is why I wanted to give you 3 the opportunity just to make the very point 4 that you have made. Thank you. So can I 5 ask you then this about whistleblowing? If a 6 whistleblowing policy requires somebody to 7 be redeployed within the organisation, what 8 would that mean in the context of the RGP? 9 Where could they be redeployed to? 10 <b>A. It really depends on who the</b> 11 <b>whistleblower is reporting on, because if the</b> 12 <b>whistleblower is reporting on a commander</b> 13 <b>of that division you would move that officer</b> 14 <b>away from that division, maybe to another</b> 15 <b>division, or even move that commander from</b> 16 <b>one division to another division.</b> 17 Q. But if a whistleblower were blowing a 18 whistle in circumstances which made his - or 19 her, for that matter - position within the 20 Force threatening to them, do you agree with 21 me that in the context of the divide between 22 public and private sector the only place 23 where they could be redeployed would be 24 somewhere else in the public sector. 25 <b>A. I disagree, sir, because police officers</b></p> <p style="text-align: center;">Page 164</p>

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<p>1 <b>aren't part of the public sector, we are police</b></p> <p>2 <b>officers and we're not Crown servants.</b></p> <p>3 Q. You are not public officers?</p> <p>4 <b>A. No, we're not part of the public sector, we</b></p> <p>5 <b>are separate to the public sector.</b></p> <p>6 THE CHAIRMAN: I think he is taking issue</p> <p>7 with the way that you have phrased the</p> <p>8 question.</p> <p>9 SIR PETER CARUANA: Where else could</p> <p>10 a police - if it is not the public sector,</p> <p>11 elsewhere in the public sector, it can only be</p> <p>12 the private sector. Where else could a police</p> <p>13 officer in need of redeployment under</p> <p>14 whistleblowing be redeployed?</p> <p>15 <b>A. We would manage it, like we manage our</b></p> <p>16 <b>officers in our grievance process and</b></p> <p>17 <b>anywhere else in the organisation, as we have</b></p> <p>18 <b>done so in the past before. We have had a</b></p> <p>19 <b>senior, a relatively senior officer making</b></p> <p>20 <b>allegations against a very senior officer, and</b></p> <p>21 <b>that senior officer continued - the</b></p> <p>22 <b>whistleblower continued to work in the</b></p> <p>23 <b>division that he worked in, because we</b></p> <p>24 <b>ensured that we offered him that protection if</b></p> <p>25 <b>he needed it.</b></p> <p style="text-align: center;">Page 165</p>	<p>1 you shared your whistleblowing information</p> <p>2 investigations with Mr McGrail, who was no</p> <p>3 longer a member of the police force?</p> <p>4 <b>A. So Mr McGrail was the Commissioner of</b></p> <p>5 <b>Police, left under very difficult circumstances</b></p> <p>6 <b>we felt at the time, and the information that</b></p> <p>7 <b>came to me was that in fact these three</b></p> <p>8 <b>officers were attempting to provide evidence</b></p> <p>9 <b>against him in respect of misconduct matters.</b></p> <p>10 <b>Now, the three officers that were named to</b></p> <p>11 <b>me were officers that I don't trust, were</b></p> <p>12 <b>officers that no longer belonged to my</b></p> <p>13 <b>organisation, that are officers that don't</b></p> <p>14 <b>adhere to the Code of Ethics and officers</b></p> <p>15 <b>who have since been arrested and charged</b></p> <p>16 <b>and are before the courts, so I think my</b></p> <p>17 <b>assumption at the time with the facts I had</b></p> <p>18 <b>available to me, I thought it was important to</b></p> <p>19 <b>tell Mr McGrail, principally for his safety. I</b></p> <p>20 <b>feared that something could happen to Mr</b></p> <p>21 <b>McGrail.</b></p> <p>22 Q. His physical safety?</p> <p>23 <b>A. His safety, sir, physical as well.</b></p> <p>24 Q. Okay. I am going to make the most</p> <p>25 general possible allusion to it. Mr McGrail</p> <p style="text-align: center;">Page 167</p>
<p>1 Q. When I asked Mr McGrail whether the</p> <p>2 Commissioner of Police was the employer of</p> <p>3 police constables, which I think is probably</p> <p>4 the position under the Act, he said that he did</p> <p>5 not think so, that this was the HR department</p> <p>6 and the government and all this comes in.</p> <p>7 Does that not strike you as being in practice</p> <p>8 the reality?</p> <p>9 <b>A. It is, and it is something that the Royal</b></p> <p>10 <b>Gibraltar Police wants to come away from.</b></p> <p>11 Q. Yes, but as we speak the position is as it</p> <p>12 is.</p> <p>13 <b>A. It is, sir.</b></p> <p>14 Q. So in the context of whether police</p> <p>15 officers are Crown officers - I am just trying</p> <p>16 to use the widest possible expression - the</p> <p>17 highest level of non-private sector employee,</p> <p>18 if there was a genuine need, and I am not</p> <p>19 asking you to accept that there were genuine</p> <p>20 needs here, if there was a genuine need to</p> <p>21 redeploy an officer out of the RGP for</p> <p>22 whistleblowing reasons, that could only be</p> <p>23 elsewhere in the public sector, could it not?</p> <p>24 <b>A. Possibly, yes.</b></p> <p>25 Q. Would you like to say, Mr Ullger, why</p> <p style="text-align: center;">Page 166</p>	<p>1 was prosecuted for a particular offence, do</p> <p>2 you recall that?</p> <p>3 <b>A. I do, sir.</b></p> <p>4 Q. Was the complainant in that case one of</p> <p>5 the officers involved in the whistleblowing?</p> <p>6 <b>A. No, they weren't.</b></p> <p>7 Q. The person in question was not involved.</p> <p>8 <b>A. In the disclosure information that I gave</b></p> <p>9 <b>Mr McGrail?</b></p> <p>10 Q. No, no, no.</p> <p>11 <b>A. Oh, sorry.</b></p> <p>12 Q. No, no, generally, were they amongst the</p> <p>13 22 or --</p> <p>14 <b>A. Yes, yes. Yes.</b></p> <p>15 Q. The person in question was.</p> <p>16 <b>A. I'm sorry, sir, if I may?</b></p> <p>17 Q. Of course.</p> <p>18 <b>A. Potentially the only genuine</b></p> <p>19 <b>whistleblower.</b></p> <p>20 Q. Potentially the only genuine</p> <p>21 whistleblower.</p> <p>22 <b>A. In my view.</b></p> <p>23 Q. Okay, that is your view. Do you recall</p> <p>24 what the Magistrate said about</p> <p>25 whistleblowing in that case, about</p> <p style="text-align: center;">Page 168</p>

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<p>1 inducement?</p> <p>2 <b>A. No, sir.</b></p> <p>3 Q. You are not aware the finding that the</p> <p>4 Magistrate made when handing down his</p> <p>5 verdict?</p> <p>6 <b>A. No, sir.</b></p> <p>7 Q. About there not being in his view any</p> <p>8 evidence of inducement.</p> <p>9 <b>A. No, sir.</b></p> <p>10 Q. Okay. We have heard in evidence how</p> <p>11 Mr McGrail retained and then destroyed</p> <p>12 information when he left - he took when he</p> <p>13 left and subsequently destroyed information</p> <p>14 relating to Operation Delhi, is that correct?</p> <p>15 <b>A. I believe so, yes, sir.</b></p> <p>16 Q. Yes. You said in answer to my learned</p> <p>17 friend that you had not been able to ascertain</p> <p>18 what that information was. Is it permitted for</p> <p>19 police officers to take official information</p> <p>20 away with them when they retire from the</p> <p>21 force?</p> <p>22 <b>A. No, sir.</b></p> <p>23 Q. What can an officer that does that expect</p> <p>24 to happen to him or her?</p> <p>25 <b>A. In respect of taking the data?</b></p> <p style="text-align: center;">Page 169</p>	<p>1 <b>meetings in there, but no-one took over his</b></p> <p>2 <b>...</b></p> <p>3 Q. No. Okay, thank you very much for that</p> <p>4 distinction. You did not move into his office</p> <p>5 --</p> <p>6 <b>A. Correct, sir.</b></p> <p>7 Q. ... to work from it, but you did go into</p> <p>8 his office in a physical sense from time to</p> <p>9 time.</p> <p>10 <b>A. Correct, sir, yes.</b></p> <p>11 Q. Thank you for that clarification. Was his</p> <p>12 laptop and his desktop then in his room?</p> <p>13 <b>A. It would have been left as he would have</b></p> <p>14 <b>left it. Sir, if he would have left his desktop</b></p> <p>15 <b>and his laptop there, yes.</b></p> <p>16 Q. Where are they now, if they were there</p> <p>17 when he left?</p> <p>18 <b>A. So in respect of his desktop, I moved in</b></p> <p>19 <b>with my desktop and the desktop that was</b></p> <p>20 <b>there was returned to the ITLD employees</b></p> <p>21 <b>that work for us. So I brought my desktop</b></p> <p>22 <b>from my office with me.</b></p> <p>23 Q. Right, and his desktop, which was then</p> <p>24 there - are you confirming that it was there or</p> <p>25 are you speaking hypothetically because it</p> <p style="text-align: center;">Page 171</p>
<p>1 Q. Yes, and/or destroying it for that matter.</p> <p>2 <b>A. There are issues that are currently - I</b></p> <p>3 <b>don't think I can maybe speak about certain</b></p> <p>4 <b>issues, sir.</b></p> <p>5 Q. All right, I do not want to put you in any</p> <p>6 difficulty. It is not permitted, that is - your</p> <p>7 answer was not permitted. That is okay. So</p> <p>8 when Mr McGrail retired on that day in June</p> <p>9 2020 you, as the Assistant Commissioner,</p> <p>10 immediately took over.</p> <p>11 <b>A. That's right, sir.</b></p> <p>12 Q. You moved into his office?</p> <p>13 <b>A. No, sir.</b></p> <p>14 Q. Did you go into his office?</p> <p>15 <b>A. No, sir.</b></p> <p>16 Q. For any purpose?</p> <p>17 <b>A. No, sir.</b></p> <p>18 Q. To take over papers or files or ...?</p> <p>19 <b>A. No, the - so we made it clear that the</b></p> <p>20 <b>Commissioner's office would remain as it</b></p> <p>21 <b>was until we knew who the new</b></p> <p>22 <b>Commissioner would be, and I continued to</b></p> <p>23 <b>work from my office. There may have been</b></p> <p>24 <b>meetings in his - because he had a boardroom</b></p> <p>25 <b>table and we may have had one or two</b></p> <p style="text-align: center;">Page 170</p>	<p>1 would have been --</p> <p>2 <b>A. I'm really speaking ... I can't remember</b></p> <p>3 <b>the removal of it because we're talking about</b></p> <p>4 <b>four years ago, but that's probably what</b></p> <p>5 <b>happened: I moved in with my desktop, I</b></p> <p>6 <b>would have connected it to all the cables and</b></p> <p>7 <b>screens or what have you, and his desktop</b></p> <p>8 <b>would have gone to ITLD and it would have</b></p> <p>9 <b>been cleaned and then used by ...</b></p> <p>10 Q. And this is ITLD ...</p> <p>11 <b>A. (Government?)</b></p> <p>12 Q. ... person who is ...</p> <p>13 <b>A. Working from New Mole House Police</b></p> <p>14 <b>Station, sir,</b></p> <p>15 Q. ... who is seconded permanently --</p> <p>16 <b>A. Seconded, sir.</b></p> <p>17 Q. Your in-house IT person.</p> <p>18 <b>A. Correct. Not permanently. They spend</b></p> <p>19 <b>three to six months stints with us.</b></p> <p>20 Q. And the same with the laptop.</p> <p>21 <b>A. I have no recollection of any laptop</b></p> <p>22 <b>whatsoever.</b></p> <p>23 Q. Is the data from RGP laptops and</p> <p>24 desktops not backed up to the cloud or some</p> <p>25 equivalent remote storage facility?</p> <p style="text-align: center;">Page 172</p>

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<p>1 <b>A. Unless we do work on the server, that's</b>  2 <b>where it's only held.</b>  3 Q. So if Mr McGrail's desktop now cannot  4 be found, if his laptop now cannot be found  5 and if the RGP does not back up on to the  6 cloud or some similar service, is it the  7 position - and his laptop and his desktop have  8 either been removed or wiped, just to borrow  9 your word, is it the position that the RGP has  10 lost all access to the entirety of Mr McGrail's  11 data and content of his laptop and desktop all  12 the years that he was ...?  13 <b>A. Being the computer peasant that I am, I</b>  14 <b>wouldn't know the details but I'm sure there</b>  15 <b>is stuff that we hold that belongs to Mr</b>  16 <b>McGrail when he was the Commissioner</b>  17 <b>with us and as a police officer.</b>  18 Q. Yes, there is a particular email at B74 -  19 you do not need to turn to it - which is an  20 email to self, dated 12 May, which Mr  21 McGrail says he prepared on his laptop from  22 notes that he had created on his desktop.  23 Would that be - we have asked for it and Mr  24 Yeats has given an affidavit saying that none  25 of it can be found.</p> <p style="text-align: center;">Page 173</p>	<p>1 <b>speak.</b>  2 Q. Thank you, Commissioner. You have  3 said that --- moving on to a wholly different  4 issue now, Operation Delhi, you have said  5 that then Commissioner McGrail then one  6 day returned to New Mole House saying he  7 was displeased with the support he was  8 getting from the Attorney General in relation  9 to the investigation. Do you recall saying  10 that?  11 <b>A. That's correct, it is in my statement.</b>  12 Q. I think this morning you have clarified, if  13 I have correctly understood you, but please  14 correct me if I have not, that this was before  15 12 May?  16 <b>A. That is correct.</b>  17 Q. Would he have reported that just to you  18 or to the senior management team more  19 generally?  20 <b>A. Probably to myself and the SIO involved</b>  21 <b>in the investigation but I can only remember</b>  22 <b>that it was us at the time in that conversation.</b>  23 Q. So you would expect Mr Richardson to  24 recall that if it had happened?  25 <b>A. I can only assume.</b></p> <p style="text-align: center;">Page 175</p>
<p>1 <b>A. I think we're still making efforts to try</b>  2 <b>and locate it. That is still happening, it's not</b>  3 <b>that it isn't.</b>  4 Q. Yes. I cannot ask you to answer for Mr  5 Yeats and I am sure if that is what he says  6 this is what is true, but I noticed that he said  7 neither device is currently in the  8 Commissioner of Police's offices. Currently  9 as opposed to when? It must have been there  10 - either Mr McGrail took them with him or  11 they must have remained in the office and  12 then dealt with as you have described.  13 <b>A. Like I said, Sir Peter, when I went into</b>  14 <b>his office, I took over as Commissioner, I</b>  15 <b>would have taken my desktop with me and</b>  16 <b>connected it and his desktop would have</b>  17 <b>gone to IT and they would have formatted it,</b>  18 <b>they would have done whatever they usually</b>  19 <b>do with it and it would have gone back into</b>  20 <b>the general collection of desktops. I can't</b>  21 <b>remember the laptop.</b>  22 Q. Would it be possible to check whether  23 there is any backup of this material?  24 <b>A. I think the Assistant Commissioner is</b>  25 <b>doing that piece of work at the moment as we</b></p> <p style="text-align: center;">Page 174</p>	<p>1 Q. You also --- in relation to this point about  2 not getting support for the investigation from  3 the Attorney General, how is the Attorney  4 General's support for an investigation as  5 opposed to a prosecution relevant to the  6 RGP?  7 <b>A. Providing legal advice and support.</b>  8 Q. You take legal advice from the Attorney  9 General in respect of investigations?  10 <b>A. It's matters that --- you know, I've gone to</b>  11 <b>see the Attorney General only recently in</b>  12 <b>respect of matters which were very, very</b>  13 <b>delicate and sought legal advice both from</b>  14 <b>him and the Director of Public Prosecutions.</b>  15 Q. In respect of ongoing investigations?  16 <b>A. That is correct, sir.</b>  17 Q. So putting to one side the question of  18 giving advice, am I right in saying that the  19 Attorney General has no role in relation to an  20 investigation --- a police investigation as  21 such?  22 <b>A. No, we usually go to the Director of</b>  23 <b>Public Prosecutions.</b>  24 Q. But even the Director of Public  25 Prosecutions --- my question does not</p> <p style="text-align: center;">Page 176</p>

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<p>1 acknowledge a difference between them 2 because in fact they are the same emanation, 3 but, never mind, even the Director of Public 4 Prosecutions, does he have a role in police 5 investigating --- I am drawing a distinction 6 between investigations and legal 7 advice/prosecution, charging advice, the 8 conduct of an operation in an investigation? 9 <b>A. No, sir.</b> 10 Q. Thank you. The question of whether the 11 Attorney General supports or does not 12 support the RGP and the conduct of 13 investigation is not an impediment, is it, to 14 the RGP conducting the investigation as they 15 please? 16 <b>A. I think it's the way you take it, Sir Peter. I think when you go to see the Director of Public Prosecutions and go to see the Attorney General and you are discussing matters of an investigation and matters of crime, you seek that support from them in respect of advice, even opinion. There is nothing stopping that happening, either.</b> 24 Q. But if you ask somebody to give you their 25 advice and their opinions in respect of</p> <p style="text-align: center;">Page 177</p>	<p>1 <b>dressing down that we have heard that ---</b> 2 <b>you know, that had happened in the Chief</b> 3 <b>Minister's office.</b> 4 Q. But did he explain to you that you can 5 remember how he had thought the dressing 6 down amounted to interference in the police 7 investigation? Did he explain it to you? 8 <b>A. Not in intricate detail, no, sir.</b> 9 Q. So he came back complaining that he had 10 received the dressing down of his career, is 11 that it? 12 <b>A. Yes, sir.</b> 13 Q. Did he in terms say that there had been an 14 attempt to interfere in the investigation? 15 <b>A. He was alluding to the fact that --- we are talking about an individual who works for Hassans, a very top person in Hassans and felt that the Chief Minister was protecting him.</b> 20 Q. Why? By giving him a dressing --- by 21 disagreeing with him about whether the 22 search warrant was the more appropriate of 23 the two options? 24 <b>A. Because of the mere fact that the search</b> 25 <b>warrant was being executed.</b></p> <p style="text-align: center;">Page 179</p>
<p>1 something which is your operation and 2 independent responsibility, and they give it to 3 you, can you then turn round and say that 4 they are interfering with you? 5 <b>A. It just depends really in the whole context</b> 6 <b>of it.</b> 7 Q. You also say at paragraph --- at 534, if 8 you want it on the screen, but at paragraph 26 9 of your witness statement, you say --- it is 10 towards the bottom, do you see about ten 11 lines from the bottom, "New Mole House, I 12 do also remember that on one occasion Mr 13 McGrail did return to New Mole House and 14 was displeased with the support ..." that is the 15 point that we have just covered. "On 12 May 16 Ian McGrail expressed his displeasure with 17 regard to what he saw ...." I suppose the word 18 "as" is missing there, "... interference in the 19 investigation by the Chief Minister and the 20 Attorney General." Why did you say, "as he 21 saw it"? 22 <b>A. It is probably ----</b> 23 Q. If it has no significance, then say so. 24 <b>A. I wasn't there. It was certainly Mr</b> 25 <b>McGrail coming back and being upset at the</b></p> <p style="text-align: center;">Page 178</p>	<p>1 Q. But did he tell you that the Chief Minister 2 tried to stop the search warrant being 3 executed? 4 <b>A. He didn't tell me that.</b> 5 Q. In fact are you aware that the search 6 warrant execution changed as a result of the 7 dressing down? 8 <b>A. I think one of the biggest failings in our</b> 9 <b>investigation was not executing that warrant,</b> 10 <b>sir, and it has been a matter that we have</b> 11 <b>discussed on a few occasions in our debriefs.</b> 12 Q. But do you acknowledge that whatever 13 happened or did not happen in the attempted 14 execution of a warrant was an RGP decision 15 in accordance with the options plan that Mr 16 Wyan had created? 17 <b>A. Exactly, it was.</b> 18 Q. And that --- it had nothing to do with 19 anything that the Chief Minister or the 20 Attorney General may have said during the 21 dressing down? 22 <b>A. Sir, I wasn't there, I wasn't part of it at all,</b> 23 <b>I wasn't ----</b> 24 Q. But if it went according to plan, if it went 25 according to the RGP's plan, and decisions</p> <p style="text-align: center;">Page 180</p>

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<p>1 were made only by RGP officers, it cannot 2 have been the hand of the Chief Minister or 3 the hand of the Attorney General. Do you 4 agree? 5 <b>A. We would have achieved things that we 6 didn't achieve on the day.</b> 7 Q. I am sorry? 8 <b>A. We would have achieved things, had we 9 executed the search warrant, that we didn't on 10 the day.</b> 11 Q. If you had made ---- if you had not made 12 --- not you personally but if the RGP had 13 made different decisions ---- 14 <b>A. That is correct.</b> 15 Q. But the RGP did not make different 16 decisions because of anything that the Chief 17 Minister or the Attorney General required of 18 the RGP. Is that a fair description of the 19 situation? 20 THE CHAIRMAN: Would he know the 21 answer to that? 22 SIR PETER CARUANA: I am sorry? 23 THE CHAIRMAN: Would he know the 24 answer to that question? 25 SIR PETER CARUANA: Well, I am sure he</p> <p style="text-align: center;">Page 181</p>	<p>1 persons listed until after Mr McGrail's 2 retirement when I took over as Acting 3 Commissioner of Police and then as 4 Commissioner of Police. I would regularly 5 update his Excellency, the Governor, the 6 Chief Minister and the Attorney General of 7 matters related to the ongoing investigation 8 which have no significant bearing now to this 9 Inquiry." Why would you update the 10 Governor, the Chief Minister and the 11 Attorney General on matters relating to an 12 ongoing criminal investigation? 13 <b>A. That was in relation to the collision at 14 sea, sir.</b> 15 Q. An ongoing criminal investigation, 16 Operation Kram, incident at sea, but it was 17 an ongoing criminal investigation? 18 <b>A. Yes, sir. If you remember, the 19 Metropolitan police service came into 20 Gibraltar, they were the independent service 21 that took over the investigation and they were 22 looking at --- in actual fact they advised us 23 that the officers involved in the collision at 24 sea should be charged with offences of 25 manslaughter, emergency offences and</b></p> <p style="text-align: center;">Page 183</p>
<p>1 knows that if it went according to plan --- 2 well, why would he not know the answer to 3 that, sir? 4 THE CHAIRMAN: I think you are really 5 asking him about things of which he has no 6 personal knowledge. 7 SIR PETER CARUANA: (To the witness): 8 Do you have any personal knowledge ---- 9 THE CHAIRMAN: If he has, I am sure he 10 will say so. 11 SIR PETER CARUANA: (To the witness): 12 Do you have any personal knowledge of 13 these matters, Commissioner Ullger? 14 <b>A. No, sir.</b> 15 Q. None at all? Do you have personal 16 knowledge of all the other things you have 17 given an opinion about? 18 <b>A. Well, personal knowledge is I would 19 have been --- I would have spoken to Mr 20 McGrail, we would have had a brief about it 21 but very briefly because I wasn't involved in 22 it.</b> 23 Q. I see, okay. At paragraph 35, perhaps 24 you had better have that on the screen, "I 25 have had no correspondence with any of the</p> <p style="text-align: center;">Page 182</p>	<p>1 <b>misconduct in public office.</b> 2 Q. I am just trying to give the Inquiry an 3 opportunity to assess whether there has 4 historically been a practice in Gibraltar of 5 Commissioners of Police updating or briefing 6 Governors, Chief Ministers and Attorney 7 Generals about ongoing criminal 8 investigations. I am not concerned about this 9 particular ---- 10 <b>A. No, sir, but I think you will understand 11 the sensitivity behind Operation Kram, 12 collision at sea, Spanish waters, Brexit, and 13 that was the intention, to make sure that we 14 kept the Governor, his Excellency the 15 Governor, and the Chief Minister and the 16 Attorney General briefed of what was 17 happening.</b> 18 Q. So the degree of briefing in respect of 19 operational matters depends on the sensitivity 20 of the issues at stake, in play? 21 <b>A. The matters that I would report to him 22 were matters of significant events in respect 23 of the investigation but it wouldn't be the run 24 of the mill stuff.</b> 25 Q. I understand. I am sorry, to be clear, is it</p> <p style="text-align: center;">Page 184</p>

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<p>1 your evidence that you were only updating 2 about those aspects of the investigation that 3 related to diplomatic and relevant business -- 4 -- 5 <b>A. Correct, sir.</b> 6 Q. --- like location and things of that sort? 7 <b>A. That is correct, sir.</b> 8 Q. After Mr McGrail retired, did the 9 Operation Delhi investigation continue its 10 normal course? 11 <b>A. It did, sir.</b> 12 Q. By "normal" I hope we both agree that it 13 means without inappropriate external 14 interference? 15 <b>A. The investigation continued as any other 16 investigation would continue.</b> 17 Q. And eventually the RGP decided that Mr 18 Levy should no longer be treated as a suspect 19 and a report was addressed --- only the 20 (inaudible) ever actually saw it but we know 21 about it. 22 <b>A. Yes, sir, it got to me, yes, sir.</b> 23 Q. And did you approve or disapprove of it 24 or perhaps your approval or disapproval were 25 not required?</p> <p style="text-align: center;">Page 185</p>	<p>1 MR SANTOS: I think that concludes the 2 questions, sir. 3 THE CHAIRMAN: Okay, thank you very 4 much. 5 (The witness withdrew) 6 THE CHAIRMAN: It is a Bank Holiday 7 tomorrow, so see you Thursday morning. 8 MR SANTOS: Yes, Thursday morning at 9 ten o'clock. 10 THE CHAIRMAN: Very good. 11 (Adjourned until 10 am, Thursday, 2 May 12 2024) 13 (15.58)</p> <p style="text-align: center;">Page 187</p>
<p>1 <b>A. This was a device from the --- the advice 2 from the senior investigating officer and on 3 his advice, Mr Levy was no longer deemed to 4 be a suspect.</b> 5 Q. Are you satisfied that that that was a 6 properly made decision uninfluenced by 7 improper pressures from outside? 8 <b>A. Yes, sir.</b> 9 Q. There is just one more thing and then I 10 am done. Commissioner Ullger, you very 11 candidly, if I may say so, said this morning 12 that you acknowledged your role as 13 commissioner when it came to taking 14 responsibilities and the question was put to 15 you in the context of the HMIC report, 16 effectively you used more elegant language, 17 "but the buck stops with me" was effectively 18 your evidence, do you agree? 19 <b>A. Yes, sir.</b> 20 Q. Would you take the same view about two 21 deaths at sea in relation to the incident at sea? 22 <b>A. Yes, sir.</b> 23 Q. Does the --- sorry? 24 <b>A. Yes.</b> 25 SIR PETER CARUANA: Thank you.</p> <p style="text-align: center;">Page 186</p>	

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