

INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

Convened by a Commission issued by His Majesty's Government of Gibraltar on 4th February 2022 in Legal Notice No.34 of 2022

WITNESS STATEMENT OF DETECTIVE SERGEANT PAUL CLARKE

1. My name is Paul Clarke. I am a Detective Sergeant with the Royal Gibraltar Police ("the RGP"). I joined the RGP in March 2018. I was promoted to my current rank in November 2019. Prior to joining with RGP, I served with the Metropolitan Police Service between 2005-2018.
2. I write this statement in answer to the questions posed by Triay Lawyers in their letter dated 16th February 2023 entitled "*Re: Inquiry into the Retirement of the Former Commissioner of Police ("the Inquiry") – DS Clarke.*"
3. This preliminary statement is prepared (on advice from my lawyers) without attaching the documents referred to, to avoid delay. The said documents are currently subject to a document review ("Document Review") by the RGP and our lawyers in accordance with the Document Protocol and when that is concluded they will form part of a document bundle ("RGP Bundle") where possible and this statement will be updated by references to the RGP Bundle.
 - I. In relation to the search warrants ("the Search Warrants") in respect of Mr James Levy KC ("Mr Levy KC").***
 - a. How many court hearings took place?***
4. Two applications were made. On the 6th May 2020, applications for the warrants were made at the Magistrate's Court to Stipendiary Magistrate Charles Pitto. Present during the applications were the Senior Investigating Officer ("SIO"), former Detective (now retired), Superintendent Paul Richardson ("Supt Richardson"), Detective Inspector Craig Goldwin ("DI Goldwin"), the Clerk of the Court Maurice Turnock, the Stipendiary Magistrate, and I. The Stipendiary Magistrate signed and endorsed the Search Warrants following the application.
5. On the 7th May 2020 I attended a meeting with former Detective Supt Richardson, DI Goldwin, and the Officer in Charge of the Investigation ("OIC") Detective Inspector Mark Wyan (now Superintendent), who attended the meeting remotely. During this meeting I was instructed to apply to the Magistrates Court to have the material sought on the warrants amended. The warrants had not been executed.

6. Later on the same date, I attended the Magistrates Court to apply for the updated warrants. I made the application to the Stipendiary Magistrate in the presence of the Clerk of the Court. I confirmed the information for the warrants had not been amended. The Magistrate then signed and endorsed these search warrants.

b. What documents (including applications, witness statements, exhibits, correspondence and written submissions) were relied on when applying for the search warrants?

7. I was instructed by SIO former Detective Supt Richardson to apply for the search warrants. In order to make the application for these search warrants, I compiled a 38-page document entitled “*Information supplied in support of application for search warrant: Criminal Procedure and Evidence Act 2011, Schedule 1 – First set of access conditions*”. The information from this document was formulated from a summary of the investigation which Detective Inspector Mark Wyan had created. This was current and accurate up to the time the application was made. Former Detective Supt Richardson read and approved the contents of the document I compiled.

8. During the application for the warrants, I read the 38-page document in its entirety to the Stipendiary Magistrate.

c. Was Crown Counsel (either from Gibraltar or the UK) instructed to make submissions to the Court when seeking the search warrants? If so, who was instructed and how were they chosen?

9. To the best of my knowledge and belief, a Crown Counsel was not instructed in relation to the application of the search warrants. I made the application. However, I was not the OIC of this investigation therefore there may be information or evidence I was not privy to.

d. Were submissions made to the Court in writing and/or orally when seeking search warrants? If oral submissions were made how long did the oral submissions take?

10. On the 4th May 2020, I sent the 38-page document to the Clerk of the Court as requested by him. As detailed in para 8 above, during the application, I read the 38-page document in its entirety. To the best of my memory, the application took approximately 2 hours.

e. Were you privy to any correspondence with any of the following persons in respect of the search warrants:

II. Hassans International Law Firm.

11. Having searched emails in relation to the investigation, on the 14th May 2020 and 15th May 2020, I was sent emails from Detective Inspector Mark Wyan containing correspondence between the RGP and Hassans International Law Firm (“Hassans”). It is to be noted that I was only sent these emails in order to record them and file them. I did not receive any correspondence personally nor did I correspond with Hassans in relation to the warrants.

12. Between the 12th and 13th May 2020, I sent 4 emails to Arthur Mills, Deputy Head of IT of Hassans, and received 3 emails from him. This was in relation to data requested from Hassan’s IT infrastructure. This was on request of Detective Inspector Mark Wyan.

III. Caruana & Co

13. I did not have any correspondence with any person from Caruana & Co at any stage throughout my involvement with the investigation. I have not been made aware of any correspondence between the RGP and Caruana & Co in relation to the search warrants.

IV. Mr James Gaggero, Chairman of Bland Ltd.

14. I did not have any correspondence with James Gaggero, Chairman of Bland Ltd in relation to the search warrants. I have not been made aware of any correspondence between the RGP and James Gaggero, Chairman of Bland Ltd, in relation to the search warrants.

f. Following Mr McGrail's appointment as Commissioner of Police, were any formal complaints made by you or to you in respect of the efficiency, effectiveness, probity, integrity, or independence of Mr McGrail in the undertaking of his duties as Commissioner of Police?

15. I made no such complaint in relation to Mr McGrail. No formal complaints were made to me by any person in relation to Mr McGrail.

V. In respect of Operation Delhi:

a. What was your involvement in Operation Delhi?

16. On the 12th April 2019, I was requested by former Detective Supt Richardson and former Detective, now retired Chief Inspector Brian Finlayson ("CI Finlayson") to be seconded from Area Response Team 5 for the purpose of Operation Delhi. It was explained at the time that Detective Sergeant Neil Zammit was the OIC.
17. My initial role was to examine Bland Ltd emails, which were related to subjects of the investigation, prior to the initial execution of search warrants and arrests of the subjects.
18. Following on from this, I assisted the OIC who was changed to Detective Inspector Mark Wyan. I would complete tasks as assigned by him or by former Detective Supt Richardson.
19. In November 2019, I was promoted to the rank of Sergeant. I was posted as Detective Sergeant of the Money Laundering Investigation Unit until the end of January 2020 where I continued to solely work under Detective Inspector Mark Wyan on Operation Delhi who would assign me tasks.
20. In September 2020, I was posted to the Public Protection Unit. I then completed a dual role until around November 2020 where my involvement with Operation Delhi ceased.

b. Did you attend any meetings in respect of Operation Delhi with Mr McGrail and/or any of the following individuals:

21. The only meeting I attended with Mr McGrail was on the 23rd April 2020. Also present at this meeting was Assistant Commissioner Richard Ullger (now Commissioner of Police), former Detective Superintendent Paul Richardson and Detective Inspector Mark Wyan. During this meeting the summary of the evidence of the case was discussed. I made notes during this meeting.

b (i) The Chief Minister.

22. I did not attend any meetings with the Chief Minister in relation to Operation Delhi.

b (ii) Albert Mena, Financial Secretary.

23. I attended one meeting with Albert Mena which took place on the 16th July 2019 at his office within No. 6 Convent Place. I attended this meeting with Detective Inspector Mark Wyan. During this meeting Mr Mena gave his account in relation to one of the subjects of the investigation. I made notes during this meeting.

b (iii) Neil Costa, former Minister for Justice.

24. I did not attend any meetings with Neil Costa in relation to Operation Delhi.

b (iv) Dr Joseph Garcia, Deputy Chief Minister.

25. I did not attend any meetings with Dr Joseph Garcia in relation to Operation Delhi.

b (v) Darren Grech, Chief Secretary.

26. I attended one meeting with Darren Grech which took place on the 25th September 2019 at his office within No. 6 Convent Place. I attended this meeting with former Detective CI Finlayson, and Detective Inspector Mark Wyan. During this meeting Mr Grech was asked in relation to his understanding of the ownership of the NSCIS Platform, and in relation to a subject of the investigation. I made notes during this meeting.

b (vi) Michael Llamas KC, Attorney General.

27. I did not attend any meetings with Michael Llamas KC in relation to Operation Delhi.

b (vii) Christian Rocca, Director of Public Prosecutions("the DPP").

28. On the 4th September 2019, I attended a meeting with the DPP at the Offices of Criminal Prosecution and Litigation ("the OCPL") with former Detective CI Finlayson and Detective Inspector Mark Wyan. Advice in relation to the investigation was sought. I made notes during this meeting.

29. On the 17th January 2020, I attended a meeting with Christian Rocca, Director of Public Prosecutions at the OCPL Offices with Detective Inspector Mark Wyan. During the meeting the summary of evidence was discussed. I made brief notes during the meeting.

30. On the 4th September 2020, I attended a meeting with the DPP, Crown Counsel Mark Zammit ("CC Zammit"), and Detective Inspector Mark Wyan. The purpose of the meeting was to discuss potential charges of the subjects. I made notes during this meeting.

31. On the 11th September 2020, I attended a meeting with the DPP and Detective Inspector Mark Wyan. The purpose of the meeting was to discuss potential charges of the subjects. I made notes during this meeting.

32. On the 25th September 2020, I attended a meeting with the DPP, CC Zammit, Detective Inspector Mark Wyan, and Detective Constable Daniel Saxby. The purpose of the meeting was to discuss Disclosure. I made notes during this meeting.
33. On the 23rd October 2020, I attended a meeting with the DPP, CC Zammit, Crown Counsel Kerrin Drago (“CC Drago”), former Detective Supt Richardson, and Detective Inspector Mark Wyan. The purpose of the meeting was to discuss the progress of Disclosure. I made notes during this meeting.

b (viii) Nick Pyle, the former Acting Governor.

34. I did not attend any meetings with Nick Pyle in relation to Operation Delhi.

b (ix) Dr Joseph Britto, Chairman of the Gibraltar Police Authority.

35. I did not attend any meetings with Dr Joseph Britto in relation to Operation Delhi.

b (x) Lloyd Devincenzi, former Senior Crown Counsel (“SCC Devincenzi”)

36. To the best of my memory, SCC Devincenzi was present at the meeting with the Chief Secretary on the 25th September 2019 as detailed above. I did not attend any meeting solely with SCC Devincenzi.

c. Were meeting minutes of file notes made by you and/or other attendees during any of the meetings of shortly thereafter? If so, were these circulated?

37. As detailed above, I made notes of each meeting I attended. I later wrote file notes detailing these meetings. I have previously provided these to the RGP disclosure team for Operation Delhi. These were notes made by me. They were not official minutes of any meeting, and they were not circulated by me or anybody else.

d. Were any formal complaints made or concerns raised to you in respect of Mr McGrail’s handling of Operation Delhi, including the decision to issue the Search Warrants?

38. No formal complaints or concerns were raised to me in respect of Mr McGrail’s handling of Operation Delhi at all. To the best of my knowledge and belief, former Detective Supt Richardson was the SIO for Operation Delhi. He oversaw the investigation and therefore made all decisions in relation to it. It was former Detective Supt Richardson who instructed me to apply for the search warrants. Save for interactions with Hassans following the application, and non-execution of the search warrants as detailed in para 11, I was not aware of any other direct involvement Mr McGrail had in relation to Operation Delhi.

e. Where(sic) you involved in any meetings or briefings with Mr McGrail and/or the RGP Command Team in the month or so leading up to Mr McGrail’s retirement in June 2022?

39. I was not involved in any meetings or briefings with Mr McGrail and/or he RGP Command Team in the month or so leading up to Mr McGrail's retirement in June 2022.

STATEMENT OF TRUTH

I believe the contents of this witness statement to be true.

Personal Data

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NAME: PAUL CLARKE

DATE: 13th MARCH 2023