

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

SECOND AFFIDAVIT OF IAN MCGRAIL

I, IAN MCGRAIL of Personal Data MAKE OATH AND SAY as follows:

1. This Second Affidavit is made for the purpose of disclosing to the Inquiry certain audio recordings and transcripts which I made of meetings I attended in May 2020. The reason I did not provide the recordings with my first Affidavit is that, as my legal team raised at the time, the Inquiry did not yet have policies which explained how it would use evidence provided to it, which was potentially not in compliance with the Gibraltar Data Protection Rules – see my lawyers submissions prior to the First Preliminary Hearing at paragraph 52 (including the subparagraphs).
2. As will be clear from the below that the recordings are highly sensitive. I was therefore concerned that before disclosing them to the Inquiry (which I always intended to do) it was made clear to me what use would be made of them and that policies were in place which would ensure they were stored and used responsibly. Now that the Inquiry has produced an essentially final document management policy, I am in a position to make further disclosure.

Additional evidence – Operation DELHI

3. In this second affidavit I want to present evidence that I secured at several meetings I attended with the Attorney General, Michael Llamas KC, and others in relation to Operation Delhi. The background to this evidence which I am now introducing has to be mapped to my first affidavit, in particular to the events of 12th, 13th, 15th and 20th May 2020 (pages 9 to 25 of my First Affidavit).

4. Following the berating I experienced on the 12th May 2020 at the hands of the Chief Minister (“CM”) and Attorney General (“AG”) I sensed that the RGP’s position and mine in particular were at some risk. As I went into the meeting with the AG on the 13th May 2020 (as described in page 17 paragraph 58 in my first affidavit) I still had the encounter with the CM and AG of the previous day very prominent in my mind. I was hurt that my professional integrity had been called in to question by them and in the way it had. I was also very worried about the fall out of the relationship with the CM and AG and also particularly about the threat the CM had directed at me when he said that he hoped that I was right and he was wrong as there would be consequences if he was found to be right. I therefore took the unprecedented decision that I would audio record any further conversations I had with the AG on this matter. This was to safeguard myself from further issues, if they arose, given that the individuals who I had been severely reprimanded by were two high-powered officials who were connected to, or seemed to be holding some form of brief for a suspect in a very serious criminal investigation with national security implications.
5. I had been previously informed by the investigating team that one of the central suspects, Mr John Perez, had been in direct written communication with the CM in relation to the attempt to appropriate Bland’s contract to the benefit of 36 North Ltd. I did not want any misconstruing of any further conversations to be held against me. It is something I have never done before in my career and even though I did not feel 100% comfortable with it, I felt that on the balance of who I was dealing with, I had to safeguard myself and the RGP.
6. The meeting was attended by the AG, the DPP Mr Christian Rocca, Senior Crown Counsel Lloyd Devincenzi, Supt Richardson and myself. It was held in the AG’s office and we sat around his boardroom table. I used my mobile phone device to record the meeting without informing any of them that I was doing so. The audio file is **Exhibit 5** along with a screenshot highlighting the date of the recording. I have transcribed what was recorded myself and therefore it is submitted on a provisional basis since it will have to be checked for complete accuracy. **Exhibit 5A** is the transcript of the meeting, and **Exhibit 5B** is the transcript with the Spanish spoken parts translated into English (para 58 in First Affidavit).
7. By the end of this meeting I was relieved and glad that the air had been somewhat cleared between the AG and myself over what was described by the AG as a misunderstanding, referring to the actions carried out the previous day on JL. I was nonetheless still very concerned about what the AG had told me about the CM saying that I had lied or misled him in to thinking that the DPP had advised the RGP to secure a search warrant to execute on JL. I was hopeful

that the AG would do what he said he was going to do to try and defuse the situation with the CM with the explanations I had given.

8. During the days that followed there were exchanges of letters and emails between the RGP and Hassans on the same matter. A letter was received on the 15th May 2020 as a result of which the AG asked me to meet again with him and the DPP. On this occasion, I asked Detective Inspector Mark Wyan to accompany me in addition to Supt Richardson. DI Wyan was the other officer who together with Supt Richardson had dealt with JL. Present at this meeting which was held in the AG's office were, the AG, the DPP, senior crown counsel Lloyd Devincenzi, Supt Richardson, DI Mark Wyan and myself.
9. I again activated my mobile phone to record what was said at the meeting. I did so for exactly the same reasons as I did on the 13th. The audio file is **Exhibit 6** along with a screenshot highlighting the date of the recording. The transcript of the meeting in English/Spanish is **Exhibit 6A** and the transcript with the Spanish parts translated parts into English is **Exhibit 6B**. I have prepared these transcripts myself so they are submitted on a provisional basis pending checking for accuracy (see paragraph 59 of my First Affidavit).
10. A further meeting was held at the AG's office on 20th May 2020 to discuss another letter which had been received from Hassans. It was attended to by the same participants as the previous meetings. For the same reasons I have previously articulated, I recorded the meeting on my mobile phone device. The audio file for this meeting is **Exhibit 7** along with a screenshot highlighting the date of the recording. The transcript which I typed is **Exhibit 7A** with the other version with Spanish parts translated into English being **Exhibit 7B**. These are submitted on a provisional basis pending checking for accuracy (see paragraph 61 of my First Affidavit).
11. At 1015hrs on 21st May I messaged the AG saying "*I know you're busy all day today but there is something sensitive we need to discuss about Delhi. Could we come round tomorrow morning? Christian (the DPP) should be there too.*" The AG responded at 1019hrs "*Sure. Tomorrow morning is fine with me.*" I replied, "*Shall we say 10am? Will you let Christian know?*" the AG replied, "*Yes and yes.*" I closed saying "*Thanks*". The reason behind me calling this meeting was that given the sentiments expressed by the AG in terms of protecting the reputation of the jurisdiction, which he said inherently passed through the office of the Chief Minister I needed to share with them other evidence of the contact the CM had with Mr. Perez, one of the defendants.

12. I had revisited the communications that Mr. Perez had had with the CM prior to his arrest. I distinctly recall this exchange:- Mr Perez was keeping the CM abreast of the meetings he was having with Bland Ltd Chairman, Mr James Gaggero and of his termination of employment with Bland Ltd. Mr Perez had told the CM that the NSCIS was working under strain; that law enforcement heads were aware of the need to maintain the relationship with him and his colleague, Mr Cornelio a co-defendant, so that the platform was kept running properly; Mr Perez also told the CM that he expected Mr Gaggero to seek compensation from him to which the CM stated that he would be happy to help with that. This exchange of messages indicated that the CM was fully aware that it was 36 North Ltd's intention to assume the contract from HMGoG to run the NSCIS platform - and to a degree, that the CM was in agreement with it at that stage. This exchange had been uncovered by the investigating team from mobile phone extractions of those arrested. I was uncertain whether the DPP or indeed the AG were aware of these communications. With all that had happened since the intervention of JL, I wanted to discuss these crucial findings with them. This meeting was scheduled for 1000hrs on 22nd May 2020.

13. As it happened, I did not attend to that meeting because other events took over. These are explained in the following paragraphs. Therefore, I did not get the opportunity to discuss this particular matter with the AG or DPP.

Additional evidence - The invitation to retire – section 34 Police Act 2006

14. Mapped with paras 78 to 80 of my first affidavit I would like to introduce further evidence of the meeting between the GPA Chairman, Dr Britto and I held in my old office at 0900hrs, on 22nd May 2020. When he arrived at my office Dr Britto looked very troubled and was very pale. I sensed something was not right so I asked him to sit down on one of the armchairs in my office. I stepped out of the office to the corridor and there activated my phone to record the conversation. It was his body language and serious facial expressions and everything else that was happening that drove me to doing this. I was extremely concerned of what had been happening to me the preceding days and felt vulnerable. I felt I was not being treated fairly or with the respect my post deserved. I therefore had to ensure that I moved with care and safeguard my interests and those of the RGP as much as I could.

15. The audio file of this meeting is **Exhibit 8** along with a screenshot highlighting the date of the recording. I have transcribed the contents of the audio file and this I introduce as **Exhibit 8A**. I also introduce a further version of the transcript with the Spanish parts translated parts into

English as **Exhibit 8B**. These transcripts are produced on a provisional basis pending checking for accuracy.

Epilogue

16. In January 2022, i.e. long after my resignation I read in the press that the AG had exercised his power under section 59 (1) (c) of the Gibraltar Constitution Order in Council 2007 to discontinue the proceedings against Messrs Perez, Cornelio and Sanchez. The AG himself made a public statement to the effect that his decision to discontinue had been made despite the DPP's advice that there were grounds for persisting with the prosecution.
17. I understand further that JL was never interviewed but that the CM was invited to and produced a voluntary witness statement although of course I do not know whether he provided any explanation as to his exchanges with Mr Perez during the time of the alleged conspiracy to defraud and interfere with / sabotage the NSCIS platform.
18. I understand also from press reports that following the section 59(1)(c) discontinuance, Messrs Perez, Cornelio and Sanchez are suing HMGoG / the Police for compensation for the legal fees which they had to expend prior to the discontinuance.
19. The events post my resignation chime with the AG's startling emotional statements in May 2020 that he would "defend the CM to the death".
20. In my mind therefore the grave misgivings that I had in May 2020 which caused me to record conversations have been proven to be well-founded. The net result as far as Gibraltar's reputation and adherence to the rules of law is concerned is that a very serious case involving allegations of fraud and sabotage of the NSCIS platform involving people in high positions in this jurisdiction has effectively been covered up with the AG himself apparently believing that his exercise of the section 59 (1)(c) power is not capable of being judicially examined.

SWORN by the abovenamed Ian McGrail

This 26th day of September 2022

at

Personal Data

A Commissioner for Oaths

Personal Data
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