

**IN THE MATTER OF AN INQUIRY UNDER THE
COMMISSIONS OF INQUIRY ACT**

AND

**IN THE MATTER OF AN INQUIRY INTO THE RETIREMENT
OF THE FORMER COMMISSIONER OF POLICE
SPECIFIED IN LN.2022/034 DATED 4th FEBRUARY 2022**

AFFIDAVIT OF CHRISTIAN MANUEL ROCCA

I, **CHRISTIAN MANUEL ROCCA**, Director of Public Prosecutions, Office of Criminal Prosecutions & Litigation **Make Oath** and say as follows:-

1. Insofar as they are within my own knowledge, the facts and matters hereinafter deposed to me are true and, insofar as they are not within my own knowledge they are true to the best of my information and belief, the source of my information hereinafter set out.
2. I currently hold the position of Director of Public Prosecutions, a post I have held since January 2019.
3. By letter dated 7 June 2022, I have been asked by the Commissioner to the Inquiry into the retirement of the Former Commissioner of Police ("Mr McGrail") to prepare a statement under oath addressing the subject matter of the inquiry and in particular to deal and respond to various questions.
4. I have no direct knowledge nor had any direct involvement in the process that ultimately led to Mr McGrail taking early retirement. I was involved in dealings with various parties in relation to Operation Delhi at the time as well as matters arising from Operation Kram which involved a collision at sea leading to deaths of civilians outside British Gibraltar Territorial Waters. However, I have no knowledge of what the impact these matters had or may have had, if any, on the early retirement of Mr McGrail and I was not involved in any discussions in that regard.
5. I was first informed about Operation Delhi at a meeting held at the Chief Minister's office on 13 May 2019. I was subsequently involved in various meetings, both in person and on the telephone, with the Royal Gibraltar Police ("RGP") for the purpose of

providing charging advice in relation to Operation Delhi. In this regard, I dealt primarily with Supt. Paul Richardson and Inspector Mark Wyan.

6. I was also present, to the best of my recollection, at two, possibly three meetings held during the course of May 2020 with the Attorney General and Mr McGrail and at which others were present. I am certain that one of those meetings was held on 15 May 2020 as there is an entry in my diary to that effect. These meetings took place after the execution of the search warrants obtained in relation to Mr James Levy QC and, I believe, as a result of issues that arose from their execution. I have had sight of type written notes taken at two meetings by the RGP and which were provided to and read by me when conducting a review of the disclosure exercise in the criminal proceedings related to Operation Delhi. I do not know when these notes were prepared. These notes appear to confirm that there were two meetings at which I attended. At those meetings Supt. Richardson was also present as was, I believe, Inspector Wyan. This is reflected in the notes of the meetings. I am not aware who called for these meetings.
7. There is now shown to me marked and exhibited as "CMR1" a true copy of notes of meetings dated 5 and 20 May 2022 which were in my possession and which were prepared by the RGP. There is now shown to me marked and exhibited as "CMR2" a true copy of an email string into which I was copied between Mr McGrail and the Attorney General and which preceded a meeting that was called for on 13 May 2022. These emails show that it was intended that a meeting be held that day at which I was expected to attend. I believe that that meeting was in fact held and that I attended. I have noted that the RGP note of the meeting held on 15 May refers to an earlier meeting being held which would likely be the meeting held on 13 May.
8. Various matters were discussed at the meetings referred to above, including determining with certainty the ownership of the NSCIS platform, the use of and execution of search warrants in respect of Mr James Levy QC, what was to be done with the devices that had been seized by the RGP given the challenges raised, any judicial review issues that arose and threatened by Hassans, how to deal with Mr James Levy QC going forward and the potential impact of recent events on the investigation/prosecution.
9. There is now shown to me marked and exhibited as "CMR3" email exchanges dated 16 and 17 May which took place after the meeting of 15 May 2020. I have not provided the attachments referred to in the e mail dated 16 May 2022 as they simply relate to pre-interview disclosure matters but would be happy to do so if requested.
10. I would also like to add that on a few occasions I did discuss Operation Delhi with the Attorney General to appraise him, in particular, of the security issues that were being uncovered during the investigation, the various suspects under investigation and the difficulties that were being encountered in relation to the ownership of the NSCIS platform. Whilst it is expected that I keep the Attorney General apprised of any matters which I deem appropriate it is not often that I discuss matters with him. I recall explaining to him, in early April 2020 that the number of proposed charges needed to

be greatly rationalised and reduced as they numbered 76 at the time and many would be dependent on the resolution of the ownership aspect. I recall that it was around early April as I was in the process of providing charging advice to the RGP at that time.

11. I have been asked to address a number of specific questions which I do below.
12. Mr McGrail did not seek my advice on the use or otherwise of a search warrant or production order in respect of the search and seizure of material from Mr James Levy QC. This was confirmed by him in an exchange of correspondence with Messrs Hassans on 14 May 2022, 20 May 2022 and 21 May 2022, which letters were copied to me by email. There is now shown to me marked and exhibited as "CMR4" true copies of those letters together with email exchanges from those involved in drafting the responses. My view, which was communicated at my meeting on 15 May 2022 at which Mr McGrail and the Attorney General were present and which is recorded in the RGP note, was that a production order would have been the more suitable and appropriate way to proceed but that these were operational matters for the RGP and the RGP's position would be defensible if those actions were subjected to a judicial review.
13. I did not discuss the proposed search warrant or production order in respect of Mr James Levy QC with the Chief Minister. However, after the execution of the search warrant I was called by the Attorney General and was asked by him whether I had advised the RGP on the use of a search warrant in this case. I informed him that my advice had not been sought and that it was unlikely that they would ever do so in such circumstances as these were operational matters for the RGP. I recall that I informed him that I was aware they had been considering making an appropriate application but that that was all. I reminded the Attorney General that we had provided charging advice in relation to a number of suspects. The Attorney General advised me that he would inform the Chief Minister of our conversation.

Personal Data

SWORN by the above-named Deponent

at SUITE 23, PORTLAND HOUSE, GLACIS ROAD

Gibraltar this 21st day of June 2022

Before me

Personal Data

Michael Adamberry
COMMISSIONER FOR OATHS