

In the Matter of the Commissions of Inquiry Act

-and-

In the Matter of an Inquiry into the retirement of the former Commissioner of Police convened by a Commission issued by HM Government of Gibraltar on 4 February 2022 in Legal Notice No 34 of 2022 ("the Inquiry")

**AFFIDAVIT OF
MICHAEL LLAMAS CMG QC**

I, Michael Llamas CMG QC, of 40 Town Range, Gibraltar **MAKE OATH** and say as follows:

1. I presently hold the office of Her Majesty's Attorney General for Gibraltar, and I did so at all times material to this Inquiry. I was appointed to this Office on 19 May 2015. Prior to this, I was the Gibraltar Government's Representative and EU Counsel in Brussels (1997-2007) and, upon my return to Gibraltar in 2007, the Chief Legal Advisor to the Government's European and International Department (2007-2015). I was appointed Queen's Counsel in 2013 and as a Companion of the Most Distinguished Order of St Michael and St George in Her Majesty's New Year's Honours List 2020, in recognition for my services to Gibraltar. I was elected as a Bencher of the Middle Temple on 14 June 2022.

2. As Attorney General, I have a number of constitutional, statutory and common law roles, which include principally:
 - (a) general legal adviser to all parts of the Gibraltar Government, including His Excellency the Governor, Ministers, Government Departments, the Royal Gibraltar Police (“RGP”) and most statutory authorities and bodies, including the Gibraltar Police Authority (“GPA”);
 - (b) guardian of the public interest;
 - (c) the exercise of the prosecutive powers of the state (including overall and ultimate responsibility for the institution, undertaking, taking over and continuing and discontinuance of criminal proceedings).

3. I swear this affidavit in response to the request by Sir Charles Peter Lawford Openshaw DL, the Commissioner appointed to conduct this Inquiry, communicated to me by letter dated 30 May 2022 from the Solicitors to the Inquiry, Attias & Levy, which requested me to prepare and produce:
 - (a) a statement under oath addressing the subject-matter of the Inquiry: namely, my knowledge of the reasons and circumstances leading to Mr Ian McGrail ceasing to be Commissioner of Police in June 2020 by taking early retirement, and the matters raised in the following two letters-
 - (i) a letter dated 29 May 2020 from Charles Gomez and Co (on behalf of Mr McGrail) to Dr Joseph Britto, Chairman of the GPA,
 - (ii) a letter dated 5 June 2020 from me to Dr Britto, responding to allegations made against me in Gomez and Co’s letter;
 - (b) any documents (including but not limited to electronic documents such as emails, word documents, PDFs and SMS, WhatsApp or other instant messages) in my possession or control relevant to the subject-matter of the Inquiry.

4. Insofar as the content of this affidavit is within my personal knowledge, it is true and, insofar as it is not, it is true to the best of my knowledge, information and belief, and the sources of such beliefs are identified herein as appropriate and relevant.
5. There is now produced and shown to me a bundle of documents marked **MLL/1**. References in this affidavit to documents in that bundle are to **MLL1/x**, where **x** is the page number in the bundle.

My knowledge of and involvement in the reasons and circumstances leading to Mr McGrail ceasing to be Commissioner of Police

6. With regard to my knowledge of the reasons and circumstances leading to Mr McGrail ceasing to be Commissioner of Police in June 2020 by taking early retirement, I would like to clarify from the outset that-
 - (a) I have no role under the Constitution, the Police Act 2006 or any other law in relation to the powers and procedure for calling for the retirement or the resignation of the Commissioner of Police, or for the removal of the Commissioner of Police in any other way. I did not take part in any of the decisions in those respects.
 - (b) I had no participation in the procedure leading to Mr McGrail's cessation other than that:
 - (i) on 12 May 2020 I told Mr McGrail, in the presence of the Chief Minister, that a breach of trust had occurred between us in relation to the RGP's actions in a criminal investigation that was being conducted by the RGP in connection with a suspected conspiracy to defraud and computer misuse offences concerning Gibraltar's National Security Central Intelligence System and the contract for its operation ("**the Criminal Investigation**"). I deal with this at paragraphs 16-80 below;
 - (ii) I attended one meeting with the Governor and the Chief Minister on 5 June 2020, in my capacity as their legal adviser, to discuss an issue that had arisen in relation to procedural errors that the GPA had made when

calling for the retirement of Mr McGrail (on which procedures I had not advised the GPA), and the consequences thereof;

(iii) I sent a letter dated 5 June 2020 to the GPA (a copy of which is now produced and shown to me at **MLL1/1-4**) replying to the very serious and untrue allegations made by Mr McGrail against me in Gomez and Co's letter dated 29 May 2020 to the GPA ("**the 29 May Letter**", a copy of which is now produced and shown to me at **MLL1/5-32**). In my letter of 5 June I stated that the contents of the 29 May Letter had deepened "*my loss of confidence in [Mr McGrail] going forward*".

(c) As far as I am aware, Mr McGrail ceased to be Commissioner of Police because he chose to retire, and I believe that he chose to retire because he knew (i) that he had lost the confidence of both the Governor and the Chief Minister, and that in those circumstances he could not realistically continue in post and (ii) that, following the GPA's decision that it could not, by reason of the manifestly flawed procedure that it had employed, call for his retirement, the Governor would call for his resignation under section 12 of the Police Act 2006.

7. I do not believe that Mr McGrail retired because he felt obliged to do so on account of any alleged interference by me in the conduct of the Criminal Investigation. It is not clear from the 29 May Letter whether Mr McGrail's position is that I interfered or that I sought to interfere. In any event, I did not improperly intervene, and I did not "interfere" or "seek to interfere" in that investigation in any manner which is improper or inappropriate, as implicit in the word "interfere".

8. Furthermore, if (which I deny) I did improperly interfere, it did not have the effect on Mr McGrail (as asserted in an email dated 5 June 2020 from Mr Gomez to the GPA's lawyer, James Neish QC) of causing him to feel that he had to retire in consequence thereof (which is the subject of the Inquiry). I say this because on 29 May 2020 (the date of the 29 May Letter), that is to say, well after all the alleged improper interfering by me had occurred, it was Mr McGrail's position that he wanted to remain in post, which was the purport of that letter (see in this regard, for example, the last eleven words of that letter which describe as a just result "*to allow Mr*

McGrail to remain in post”). It would therefore appear to be axiomatic that Mr McGrail did not feel that he could not remain in post and had to retire in consequence of anything that I had said or done.

9. I did have some limited involvement in the matters and events which had caused or contributed to the Governor and/or the Chief Minister to lose confidence in Mr McGrail, and I deal with these below.

The matters raised in the two letters dated 29 May 2020 and 5 June 2020

10. It is not possible to exaggerate the seriousness of the allegations made by Mr McGrail against me in the 29 May Letter. In it, he accuses me of all of the following:
 - (a) interfering with the freedom of the RGP to carry out criminal enquiries without interference in breach of the rule of law (page 1, and para 42), and “*an abuse of power unprecedented in Gibraltar*” in which he alleges that I have “*played a key role*” (page 3);
 - (b) by virtue of the purport of paragraphs 15-24 (from the alleged applicability of which I am not excluded) that I have incurred in corruption, and thereby threatened the rule of law;
 - (c) that for many months I tried (apparently without success thanks to his own robust resistance) to persuade Mr McGrail to change his and the RGP’s approach to the investigation which would either lead to it being dropped entirely or certain suspects not being prosecuted (para 35), that I put pressure on him to do so and that I was primarily concerned with protecting the Chief Minister and “Gibraltar PLC” (para 37);
 - (d) in short, Mr McGrail accuses me of being part of a plot, together with the two highest office-holders in our jurisdiction (the Governor and the Chief Minister) which was engaged, not just in an “*abuse of power*”, but in an “*attack on the Constitution, the rule of law... human rights principles and ... the separation of powers*” (para 32).

11. While I believe that it is laudable and necessary for a Commissioner of Police to appropriately call out improper interference with the independence of policing, which is indeed a mainstay of the rule of law, for the reasons I set out in paras 16-80 below, I consider it is completely unjustified for Mr McGrail to suggest that I did so interfere or did any of the things he alleges against me in the 29 May Letter. Mr McGrail's own behaviour at the time the improper interference was allegedly occurring appears to corroborate this, notably:
- (a) he did not at any stage complain to me that he felt that my interventions amounted to such improper interference;
 - (b) the Governor is constitutionally responsible for the independence of policing in Gibraltar. The Commissioner of Police meets regularly with the Governor and has access to him at will. Yet, at no stage during the Criminal Investigation did Mr McGrail bring any concerns such as expressed in the 29 May Letter, or indeed any concerns at all, to the Governor's attention, as would have been his duty to do if they had occurred;
 - (c) nor did Mr McGrail do so to the GPA, to which he is immediately accountable.
12. My interventions (such as they were) did not justify either the nature of the allegations made in the 29 May Letter or the terms in which they were made.
13. I therefore believe, and the available evidence suggests, that these allegations were made by Mr McGrail in order to justify his decision to retire before he was called upon to resign by the Governor.
14. Three substantive matters are raised in the 29 May Letter to the GPA, namely-
- (a) the Criminal Investigation ("**Operation Delhi**", the code name given to it by the RGP);
 - (b) the Incident at Sea on 8 March 2020 ("**Operation Kram**", the code name given to it by the RGP); and
 - (c) the Report by Her Majesty's Inspectorate of Constabularies.

The latter two were also referred to in the GPA's second letter dated 22 May 2020 to Mr McGrail (a copy of which is now produced and shown by me at **MLL1/33-35**).

15. Of these three matters, I had some degree of involvement in relation to Operation Delhi, with which I deal at paragraphs 16 to 80 below, and Operation Kram, with which I deal at paragraphs 81 to 93 below.

THE CRIMINAL INVESTIGATION - OPERATION DELHI.

Background

16. My involvement in the Criminal Investigation was initiated by Mr McGrail himself when, on 11 May 2019, he sent an email to the Chief Minister, the Minister of Justice, the Chief Secretary, the Financial Secretary, the Director of Public Prosecutions and myself, a copy of which is now produced and shown to me at **MLL1/36**, stating the following:

“Dear all–

I believe you are aware of the investigation we are conducting following a complaint filed by James Gaggero, Chairman of the Bland Group. Yesterday, we carried out executive action on three ex-Bland Group employees and they are now on police bail. Immediate enquires post to our intervention have revealed issues of serious concern which I require to brief you on. Please advise when we could meet - the sooner the better. I would also ask that this request to meet is not shared with anyone other than those copied in this email.

*KR
Ian”*

17. That meeting took place on 13 May 2019. During the meeting Mr McGrail stated that the investigation concerned the suspected hacking of the National Security Central Intelligence System (“**NSCIS platform**”) by the three suspects (Messrs Cornelio, Perez and Sanchez). Messrs. Cornelio and Perez were ex-employees of Bland Limited, the company that had been providing the NSCIS platform service to the Government. Mr Sanchez is a civil servant who acted as the Government's main contact point for matters connected to the NSCIS platform.

18. Mr McGrail explained that the case revealed that very serious failures had occurred with regard to the operation and management of the NSCIS platform which directly impacted the national security of Gibraltar. He also explained that the investigation covered a company, “36 North Limited”, formed by Messrs. Cornelio and Perez for the suspected purpose of taking over from Bland Ltd the provision of the NSCIS platform service to the Government. Mr McGrail confirmed that the law firm “Hassans”, the partners of which include the Chief Minister, held shares in that company. He also said that Mr James Levy CBE QC, the senior partner of Hassans, was mentioned in communications with the three suspects and that he was potentially a person of interest to the investigation.
19. I assumed that Mr McGrail took the unusual initiative of seeking a meeting to discuss an ongoing police investigation with the Chief Minister and the other above-mentioned office-holders including myself because of the seriousness and delicacy of the issues that arose in the investigation.
20. I myself had no further involvement with the Criminal Investigation until about eleven months later, even though I was aware that the investigation was continuing. For instance, I was aware that the Chief Secretary and the Financial Secretary had been interviewed by the RGP and that they were both asked to prepare Witness Statements. Members of my office assisted the Chief Secretary with the interview and with the preparation of his Witness Statement dated 21 January 2020. I also became aware sometime during this period that there was a dispute between the Government and Bland Ltd as to the ownership of the NSCIS platform.
21. It was not until early-April 2020 that the Criminal Investigation was brought to my attention again. On this occasion it was as a result of a call I received from the Director of Public Prosecutions (“DPP”), Christian Rocca QC, who wished to discuss with me certain aspects of the RGP’s investigation. I would like to point out that the DPP very rarely seeks to discuss criminal cases with me and typically acts completely independently from me. The fact that he called me gave me cause for concern that there was something seriously wrong.
22. During our discussion, the DPP confirmed to me–

- (a) that on the basis of the information that was available to the DPP at that time, it was clear that there had been serious failures of the national security system of Gibraltar;
 - (b) that Hassans held shares in the “rival” company (36 North Ltd) and that Mr Levy was potentially a person of interest;
 - (c) that a senior civil servant (Mr Sanchez) was one of the suspects;
 - (d) that the Chief Executive Officer of the Borders and Coastguard Agency (Mr Aaron Chipol) may also have been implicated; and
 - (e) that ownership of the NSCIS platform was contested and that there was no formal written contract between the Government and Bland Ltd in this regard.
23. The DPP also informed me that that the RGP had drawn up a list of 76 charges against Messrs Cornelio, Perez and Sanchez. This was news to me. The DPP told me that the excessive number of charges seemed wholly inappropriate and that he was of the view that the charges needed to be rationalised, ideally after dealing with the issue of ownership of the NSCIS platform which was still ‘live’ and needed to be dealt with. It seemed clear to both of us that the ownership of the platform was key to the viability of a number of the proposed charges, and that on one possible ownership outcome a number of the proposed charges would necessarily fall away.
24. Each of the matters set out in paragraph 22 above, and still more so all of them in combination, raised matters of considerable public importance, and also, to my mind, had the potential to cause serious reputational damage to Gibraltar, very especially at a time when negotiations were (and still remain) afoot with the EU and Spain in relation to vital related matters for Gibraltar.
25. I was already aware of many of the matters raised with me by the DPP (see paras 17-19 above), and my concerns about them had existed ever since Mr McGrail first brought most of them to my attention in May 2019, but the fact that the RGP were now, eleven months later, proceeding in this very delicate matter without resolving

the issue of ownership of the security platform, and on the basis of a manifestly excessive list of charges, was of considerable concern to both the DPP and me.

26. I considered then, and still consider, that I have a legitimate public interest role and function (indeed, a responsibility) in respect of such matters, namely the unwieldy number and viability of proposed charges particularly in relation to a case that exposed serious failures in the national security of Gibraltar by the public agencies responsible and possible misfeasance by public officers.
27. The DPP and I therefore agreed that I should seek a meeting with Mr McGrail about the quantity and rationalisation of charges. Contrary to Mr McGrail's accusations against me and the improper motives that he imputes to me, I would not have known about this or intervened at all if the DPP had not himself brought this matter to my attention and requested me to act as aforesaid.

Meeting with Mr McGrail of 7 April 2020

28. Mr McGrail and I met in my office on Tuesday 7 April 2020. I was accompanied by Mr Lloyd DeVincenzi, at the time Senior Legal Adviser and now the Solicitor General. Mr McGrail was accompanied by Detective Superintendent ("DS") Paul Richardson. This was the first time I met with Mr McGrail or the RGP about the Criminal Investigation, other than the 13 May 2019 meeting referred to in paragraph 17 above.
29. In that meeting, Mr McGrail and I agreed that, as he had said in his original email of 11 May 2019, the investigation did indeed raise issues of serious concern. I therefore advised Mr McGrail that I considered it vital that the investigation should proceed and be conducted prudently and with tremendous care. With this in mind, I explained to Mr McGrail that I was deeply concerned that the RGP were proceeding without first resolving the ownership dispute since it seemed to me that that issue would likely have an impact on some of the proposed charges. I told him that I was also concerned about the proposed number of charges, 76, which seemed wholly excessive. I reminded Mr McGrail of the general wisdom of focusing charges appropriately.

30. During this meeting Mr McGrail himself raised with me other matters relating to this investigation. For instance, he said that the Chief Minister, another Minister, a member of the Opposition and the Financial Secretary were all partners of Hassans. I interpreted Mr McGrail to mean that, through their partnerships in that law firm, and that law firm's shareholding in 36 North Limited, these persons had an indirect ownership interest in that company. Although it did not appear to me that there was any suggestion being made of possible wrongdoing on their part, it was clear to me that there were obvious potential reputational issues for Gibraltar.
31. I also recall that, possibly in the context of his reference to Hassans, Mr McGrail also made a reference to My Levy and his hope that he would assist the investigation. I do not recall engaging in any discussion with him on this.
32. After a long, and from my recollection, amicable discussion, we reached what, for me, was a very clear understanding between us, namely, that the RGP would not take any further action until they had (i) clarified the question of the ownership of the NSCIS platform (ii) rationalised the charges (which the DPP had told me was extremely possible to do), and (iii) whereupon Mr McGrail would meet with me and the DPP before taking any further steps. It was clear beyond peradventure that nothing, other than what we had agreed to, would happen until we met again.
33. There was nothing in what I said, or in the manner in which I said it, that Mr McGrail, DS Richardson or anyone else in the RGP could reasonably or properly have interpreted as interference or pressure to stop the investigation or change its course or approach, or anything other than entirely appropriate advice and assistance in the context of those specific issues. And nor did Mr McGrail suggest otherwise to me.
34. That Mr McGrail had accepted the advice that solving the issue of ownership of the NSCIS platform was integral to the prosecution of the case is evidenced by his email and attached letter dated 8 April 2020 (that is to say, the day after our meeting) to the Financial Secretary, which he copied to me. A copy of this email and letter is now produced and shown to me at **MLL1/37-39**. In the email Mr McGrail stated that the letter concerned "*a key issue that remains pending in the investigation of the hacking of the NSCIS platform*" (my emphasis) and in the letter, Mr McGrail stated the following:

“The Director of Public Prosecutions has advised that the issue of ownership of the platform is integral to the prosecution of this case. This is based, in part, on statements made on 26 July 2019 by two of the subjects under investigation that the platform is owned by HMGoG. You will appreciate that this point needs clarification in fairness to the accused”.

35. As a consequence of the above, and of a separate approach made by Mr McGrail to the Chief Secretary, Darren Grech, the Chief Secretary submitted a Supplementary Witness Statement to the RGP on 4 May 2020 setting out the Government’s preliminary views on ownership. Until that moment the RGP appears to have had only Bland’s views on the ownership of the platform. As a result of Mr Grech’s statement, the RGP were formally seized of the existence of a dispute as to ownership of the platform.
36. On the basis of my diary entries, I met again with Mr McGrail on 22 April 2020, accompanied by the DPP. However, the meeting was in relation to Operation Kram, in respect of which I was advising and assisting the RGP with the sensitive political and jurisdictional issues that had arisen with Spain (see paragraphs 81-93 below). As far as I recall, we did not discuss any aspect of the Criminal Investigation during this meeting.

The events of 12 May 2020

37. Without any further communication between me and Mr McGrail or anyone else in the RGP about this case, on 12 May 2020 the RGP executed search warrants at the home and offices of Mr Levy. Mr McGrail informed me of this by WhatsApp message at 12.26 hrs as the search warrants were being executed. It reads as follows:

**“Michael – before you hear it from anyone else I want to inform you that detectives are executing a search warrant at Hassans for (JL) in relation to the case against Perez, Cornelio & Sanchez. Its been done in the most discrete of ways and we’re hoping there is co-operation. I have also advised CM.
Rgds”**

38. This took me by surprise since it was a clear violation of what Mr McGrail and I had agreed in our meeting of 7 April 2020. I was very disappointed with his action and I responded to him two minutes later also by WhatsApp as follows:

“Ian, we had agreed that you would come to me with a rationalisation of the charges before doing anything?”

We then had the following exchange also by WhatsApp:

[12/05/2020, 12.29 hrs] Ian McGrail:

“We agreed we’d do that when all the loose ends were tied up and this included the enquiries with JL.”

[12/05/2020, 12.30 hrs] Michael Llamas:

“No. That was not what we agreed.”

[12/05/2020, 12.31 hrs] Ian McGrail:

“I am in the bunker. Will come round to your office as soon as I finish here.”

39. At the same time, it became apparent that the Chief Minister had received the same original WhatsApp message from Mr McGrail. The Chief Minister asked to see Mr McGrail. Mr McGrail happened to be in a separate meeting in “the bunker” at No 6 Convent Place (the building which houses the office of the Chief Minister, and which also contains the Civil Contingency Committee’s premises, known as “the bunker”) and he came to see the Chief Minister immediately. I was present at this meeting between them.

40. My recollection of the meeting (which could not have lasted more than around 20 minutes) is that the Chief Minister was angry and expressed to Mr McGrail, in robust and no uncertain terms, his view that the RGP’s decision to execute the search warrants on Mr Levy was wholly inappropriate and ill-advised. He told Mr McGrail that Mr Levy was a highly respected member of our society and the head of the Jewish community and that Mr Levy, as both Mr McGrail and the Chief Minister themselves, were all officers of the court and as such were always under a duty to cooperate and that he could not therefore understand why the RGP had not approached Mr Levy in a less invasive way such as on the basis of a Production Order. He told Mr McGrail that he did not want him to think that he was reacting in this manner because of his

strong ties to Mr Levy but that he would have reacted in the same manner had the search warrants been executed against any other senior member of the Bar.

41. The Chief Minister also expressed his concerns with the fact that personal devices belonging to Mr Levy had been seized since they were likely to contain legally privileged material and, possibly, sensitive personal information. He told Mr McGrail that the Government might face claims for damages for breaches of privacy. The Chief Minister also asked Mr McGrail why search warrants had not yet been executed against a more junior member of the Bar who, as Mr McGrail had informed him some time ago, was being investigated by the RGP and suspected to be involved in money laundering activities which could cause serious reputational damage to Gibraltar's finance centre.
42. My recollection is that Mr McGrail defended his decision on two grounds. Firstly, he stated that the warrants had been granted by a judge who must have therefore been satisfied that the relevant threshold was met. The Chief Minister replied that that did not address the fact that the RGP had conspicuously failed to ask Mr Levy to voluntarily produce the documents and devices and that warrants were, in any event, normally granted without detailed legal examination.
43. Secondly, Mr McGrail sought to defend his decision by making two comments which startled me. He first said that he had been taking advice from me and intimated that I had approved of the course of action the RGP had taken. This was totally untrue and I said so. I could not believe he had said that. In fact, we had only discussed the Criminal Investigation once, in the meeting of 7 April 2020, during which we had not discussed the issue of a search warrant on Mr Levy at all.
44. When I refuted this, Mr McGrail then said that he had been taking advice from the DPP and that the DPP had advised him that the RGP should proceed by way of a search warrant. The Chief Minister and I told Mr McGrail that we found it very difficult to believe that he could have received such advice from the DPP.
45. In this meeting I referred to the understanding Mr McGrail and I had reached in our meeting of 7 April 2020 that he would take no further action until the charges had

been rationalised. I told Mr McGrail that there had been a breach of trust between us since he had acted in complete disregard to what we had agreed.

46. After Mr McGrail left the meeting, the Chief Minister asked me to ask the DPP whether or not it was true that he had advised the RGP to proceed by way of a search warrant against Mr Levy. The DPP confirmed to me that he had never given such advice. I passed this information to the Chief Minister.
47. I had a further exchange of WhatsApp messages with Mr McGrail later that same day as follows:

[12/05/2020, 18.33 hrs] Ian McGrail:

Michael - we both are disappointed but I just can't leave the matter as it is. I'd like to meet face to face. We have to work together & your wrong impressions about me need clearing up.

[12/05/2020, 18.41 hrs] Michael Llamas:

Ian, it would not be constructive to meet, at least not for now. For me it was abundantly clear what we had agreed and there is therefore very little to discuss about that. All I have tried to do is to help you in all of this and to protect Gibraltar plc which is what I have spent all my life doing. I feel very, very let down. A serious breach of trust has occurred.

[12/05/2020, 18.43 hrs] Ian McGrail:

I respect your view not to meet but totally refute any breach of trust. We'll agree to disagree.

48. That day (12 May), I received two missed voice calls from Mr Levy, at 12.57 hrs and 13.07 hrs which, since they were just a few minutes after the search warrants had been executed, I assumed were in relation to this matter. I recall that I did speak to him, either later that day or the following day, and that, whilst being respectful, he complained to me about the way he had been treated by the RGP. He felt very aggrieved. I listened to what he had to say and told him that the DPP was handling this matter and that he should speak to him, which I believe he did.
49. At 23.03 hrs on that same day, I received an email from Mr Lewis Baglietto QC of Hassans on behalf of Mr Levy and attaching the RGP's Voluntary Attendance for

Police Interview under Caution served on Mr Levy earlier that day, a copy of which is now produced and shown to me at **MLL1/40-44**. In the email, Hassans referred to, inter alia, the “*apparent gross abuse of power*” by the RGP, that the issue of a warrant was “*unnecessary, oppressive and highly distressing to Mr Levy and his family*” and that it “*directly impugned Mr Levy’s reputation and dignity as an officer of the court...*”. Mr Baglietto went on to request my “*urgent intervention with a view to ensuring that all the seized material is returned forthwith*” highlighting, in particular, that the devices contained a vast amount of legally privileged information. I immediately forwarded the email to Mr McGrail and replied to Mr Baglietto suggesting a meeting between him, Mr McGrail and myself the following day.

50. Although Mr McGrail was at first amenable to such a meeting with Mr Baglietto, he subsequently took the view that it would not be appropriate and the meeting did not take place. Instead, we agreed to meet between ourselves together with the DPP at 15.00hrs the following day.

My further meetings with Mr McGrail

51. As far as I can recollect, I had two further meetings with Mr McGrail and his team on this matter: on 13 and then on either 15 or 22 May 2020. In both meetings the DPP was also present. Mr DeVincenzi was also present at the meeting of 13 May 2022. Both these meetings were principally in relation to advice on the handling by the RGP of the legal dispute with Mr Levy about the execution of the search warrants against him.

Meeting of 13 May 2020

52. Prior to our meeting of 13 May 2020, Mr McGrail had sent me and the DPP an email addressing the issues raised in the Hassans letter of the previous day, a copy of which email is now shown to me at **MLL1/45-47**. In this meeting we discussed the contents of Mr McGrail’s email.
53. The DPP and I told Mr McGrail very clearly that the decision whether or not to obtain and execute the search warrant was an operational issue and had been entirely a matter for the RGP, but that we both thought that it was the wrong decision and an

excessive course of action to have taken in the circumstances, that instead they would have been better served seeking an inter parties Production Order, and that by having proceeded in this manner they were exposing themselves to a threat of judicial review (for which the Hassans letter the previous day already paved the way).

54. The DPP and I also questioned the logic of a search warrant when the investigation had been known to Mr Levy for a very long time. We told him that we were both also of the view that as an officer of the court it was likely that Mr Levy would, subject to appropriate safeguards, have voluntarily provided the evidence and devices that the RGP had taken away from him.
55. Our concern was not because of any sense that lawyers should be exempt from this mechanism, rather it was, as would be the case of any person, that such action should reflect the reality of the risk of destruction of evidence unless the person is taken by surprise, or the refusal of the person to provide the evidence voluntarily. That should not be presumed against any person, still less a practising, very senior and respected lawyer, but, as the DPP informed me, Mr Levy had been aware of the RGP's interest in him for many months, and had had plenty of opportunity to destroy evidence if he were minded or inclined to do so.
56. The DPP told Mr McGrail that his views had not changed and that, having given Charging Advice, he was of the view that questioning Mr Levy was a reasonable and necessary line of enquiry but that, as things stood on the evidence he had seen, he would have difficulty prosecuting Mr Levy. The DPP told Mr McGrail that the case against Mr Levy was borderline and it was difficult to distinguish between what amounted to sharp business practice and participation in a conspiracy. He also said that, on the basis of the evidence he had seen, he would be hard pressed to pursue charges against Mr Levy but that the evidence he had seen as against the other three suspects was far more cogent. The DPP and I told them that care needed to be taken to ensure that their actions did not undermine the case against those three suspects.
57. As the DPP normally deals with such matters, I never asked for, nor had I read, the Charging Advice so I did not know what evidence the RGP had against Mr Levy. As explained above, the DPP had given the Charging Advice and his views were as

expressed above. I have followed the DPP's views and assessments, in whom I have total confidence.

58. Mr McGrail appeared to take umbrage with what was being said to him. I recall from the defensive nature of their replies (later to be confirmed by the statements made in the 29 May Letter) that, both he and DS Richardson appeared to think that I (or the DPP and I) were seeking to interfere with the conduct of the criminal investigation in the sense of closing off certain aspects of it. Alternatively, or in addition, that we were questioning his integrity. I recollect that Mr McGrail even referred to his high standards of integrity and said something on the lines that if he had to leave his post he would do so with his head held high. I listened to this with disbelief. I could not understand why he said that, or reacted in this way to what the DPP and I were saying to him at that meeting, none of which warranted any such reaction. I concluded that it could possibly be a reaction to his meeting with the Chief Minister the previous day.
59. What became clear to me, as I already said in my reply of 5 June 2020 to the GPA (at **MLL1/1-4**), was that Mr McGrail considered that he was immune to having his actions disapproved of or criticised and that he equated both to improper interference with the conduct of a criminal investigation and a violation of police independence.
60. The reality is that, while the RGP is undoubtedly entitled, indeed required, to investigate the possible commission of crimes independently, and without improper interference from others, that does not exempt it from comment or criticism, still less from being tendered advice, by the Attorney General and the DPP (and indeed, in respect of comment and criticism, from anyone else). In this regard it is ironic that Mr McGrail should cite against me paragraph 15 of the Council of Europe Code of Police Ethics, which states that "*The police shall enjoy sufficient operational independence from other state bodies in carrying out its given police tasks, for which it should be fully accountable.*" (underlining added for emphasis).
61. Mr McGrail said that the RGP needed to interview Mr Levy as a necessary line of enquiry. This was also surprising since neither the DPP or I ever questioned this. Indeed, the DPP had told him that Mr Levy was a necessary line of enquiry (see para 56 above) and that he needed to be given an opportunity to answer allegations and

provide clarity, if possible, as to what had happened. Indeed, Mr Levy may have been able to help the prosecution.

62. At some stage during that part of our discussion Mr McGrail asked the DPP and me whether we wanted him to stop the investigation. This came as a complete surprise to us as nothing that we had said was open to that possible interpretation. We both categorically replied that this was a matter entirely for the RGP.

63. Curiously, Mr McGrail also told the DPP that he (the DPP) had the power to stop the prosecution on public interest grounds and he told me that I had the power to stop the prosecution altogether by issuing a *nolle prosequi*, and that if either of us did so he would not care. Both the DPP and I were startled by these comments, both by the suggestion that the DPP or I wanted to stop the investigation and that if we did so Mr McGrail would not care. We both told Mr McGrail that we were not in a position to take a view on any of that.

64. At paragraph 37 of the 29 May Letter, Mr McGrail says that “*he was given the strong impression*” that I “*was primarily concerned with protecting the Chief Minister and “Gibraltar PLC” (the AG’s words)*”. It is absolutely right that I expressed this concern, but it is untrue that I could possibly have given Mr McGrail the impression that it was, or even may be, my primary concern. I would comment on this matter, as follows:

64.1 The Chief Minister was not under investigation, there was no evidence of wrongdoing on his part, Mr McGrail never suggested that there was such evidence or that he was a person of interest to the RGP in the context of the investigation. Accordingly, “*protecting the Chief Minister*” did not concern or require interference with the investigation.

64.2 The context of this aspect of the discussion was that I expressed my concern about Point 9 of the Voluntary Attendance for Police Interview under Caution served on Mr Levy on 12 May 2020 (see **MLL1/43**). This stated that one of the topics which the RGP sought to explore in a formal interview under caution with Mr Levy was his communications with the Chief Minister in relation to this matter.

- 64.3 I recall telling Mr McGrail that unless there were compelling reasons for this, that item of the interview ought to be removed or amended and I expressed once again how careful the RGP needed to be to avoid causing unnecessary and unjustified damage to our jurisdiction.
- 64.4 This concern to protect our jurisdiction, has to be understood in the context known to everyone in Gibraltar, including to Mr McGrail, and to everyone outside Gibraltar who follows the way in which Spain plays out its claim to the Sovereignty of Gibraltar and her opposition to any and all self-government and constitutional advancement for Gibraltar. During my many years in the roles in Government that I describe in paragraph 1 above, I have had much first-hand experience of how Spain, in those contexts, has historically and persistently exploited any opportunity that she can to criticise and bring international opprobrium to bear on Gibraltar in order to tarnish our reputation and our economy, and thus undermine our quest for international recognition of our right to self-determination. This is well known to everyone in Gibraltar, and further afield.
- 64.5 My concerns in this respect were heightened by the matters referred to in paragraph 24 above.
- 64.6 In this context, I recall telling Mr McGrail, absent any suggestion of criminal wrongdoing on the Chief Minister's part, or that he was himself the subject of the RGP's investigation or of interest thereto, that if any of this would even remotely touch upon the Chief Minister, because of his ties with Mr Levy or his partnership of Hassans, and therefore had the potential of affecting the Office of the Chief Minister and thereby the reputation of Gibraltar at this critical time of our history, then I would certainly consider my options if I took the view that this part of the investigation was proceeding on "flimsy grounds" i.e. without any proper evidential base or justification. I made it very clear that I was indeed concerned about protecting the Office of the Chief Minister and our jurisdiction. I told Mr McGrail very clearly that the damage in the street (here and in Spain) could be very serious and that I would not tolerate this to happen on unjustified grounds.

- 64.7 Mr McGrail appeared to understand the nature and extent of my concerns because by email dated 14 May 2020, Mr McGrail sent me a revised version of the Caution where the reference to “Chief Minister” at Point 9 had been replaced by a reference to “any other person”, which satisfactorily addressed my concerns without curtailing the subject-matter of the RGP’s interview of Mr Levy.
- 64.8 In expressing myself in relation to this part of the discussion, I recall using over-expressive and emotional language which, although it was motivated by my concern to protect Gibraltar from unnecessary harm, with hindsight, I now regret. That said, this in no way affected the substance of the discussion or its outcome. It was simply the expression of justified views and concerns in unnecessarily emotive terms, perhaps reflecting the fact that I have lived and grappled with Spain’s exploitation of whatever it can against Gibraltar for so many years and at such close quarters. But I acknowledge that that did not make it necessary.
65. The meeting then turned to other matters. Firstly, Mr McGrail asked me how we would deal with the serious accusations being made by Hassans against the RGP in their letter of 12 May 2020. Either the DPP or I (I do not remember which of us) told him that he should rest reassured that my office would defend them from such accusations.
66. Secondly, we discussed what would happen next. I recall a discussion on what would happen with Mr Levy’s devices since this was the urgent matter that Hassans had raised in their letter of 12 May 2020. I believe DS Richardson said that they would continue to hold them for the time being. We also had a general discussion as to what the RGP expected to achieve in the interview with Mr Levy. At the end of that discussion we agreed that the interview under caution (scheduled for 18 May 2020) should go ahead and I said words to the effect that considering the immediate and strong reaction from Hassans, we should expect resistance with this.
67. At the end of the meeting, I asked Mr McGrail to stay behind alone with me. Although I thought he had got it profoundly wrong in the matters I have described above, and

I felt very let down by the breach of trust that had occurred between us and that I felt quite shocked by his reactions in our meeting, I thought that it was necessary to clear the air between us to ensure a continuing, constructive working relationship between us. I also wanted to leave him in no doubt that I and my office would be fully available to him to deal with the serious accusations being made by Hassans against the RGP. I told him that we had to move on from our profound disagreement on what we had agreed on 7 April 2020.

68. I heard again from Mr Levy by WhatsApp message that evening at 20.57 hrs, as follows:

[13/05/2020, 20.57 hrs] James Levy:

**On the other matter I feel I've been hung out to dry.
Certainly not by you.**

I assumed that he was referring to the execution of the search warrants against him the previous day and I interpreted his statement that it was "*certainly not by [me]*" to mean that he (correctly) assumed that I had not been involved in the decision to obtain and execute the search warrants.

As a matter of courtesy to him, I replied, but I wanted to do so without commenting or being drawn into conversation with him about the matter, so, I replied one minute later as follows:

[13/05/2020, 20.58 hrs] Michael Llamas:

Don't worry.

I thereby sought to, and did end the exchange. In fact, what I had agreed with Mr McGrail in our meeting earlier that day was that the RGP would continue to hold Mr Levy's devices and would proceed with the interview under caution (see para 66 above), the precise things that Mr Levy's lawyers were complaining about in their letter of 12 May 2020.

Further meeting on 15 or 22 May 2020.

69. Between the 12-15 May 2020, Hassans, on behalf of Mr Levy, wrote variously to the Clerk of the Magistrates' Court, the RGP and me making serious allegations against the RGP (including allegations of abuse of law and misfeasance in public office) in relation to the obtaining and execution of the search warrant against Mr Levy. Hassans also threatened bringing an action by way of judicial review. One of Hassans' letters asked the RGP to provide certain documents and records to enable Mr Levy to "*vindicate his legal rights*", and also for prior disclosure of the matters to be canvassed with Mr Levy in the interview scheduled for 18 May 2020.
70. In Mr McGrail's reply dated 14 May 2020 (a copy whereof is now produced and shown to me at **MLL1/49-50**) to Hassans' letter to him dated 13 May 2020, Mr McGrail stated that the DPP "*has not provided advice on the application of a search warrant which remains an operational matter*". I refer the Inquiry in this respect to paragraphs 42-44 above relating to what Mr McGrail told the Chief Minister to the contrary in this respect.
71. The DPP and I assisted Mr McGrail and the RGP in replying to Hassans during those days and we met again with Mr McGrail on 15 or 22 May 2020 to discuss and agree further responses to Hassans' letters. In other words, we were advising and protecting Mr McGrail and the RGP from the serious allegations being made against them by, and on behalf of, Mr Levy.
72. On the handling of Mr Levy, my recollection is that the DPP repeated that it was clear that Mr Levy had information of value and relevance to the prosecution case but that the course of action which the RGP had embarked upon had already complicated matters very significantly (potentially also in relation to the prosecution of Messrs Perez, Cornelio and Sanchez in respect of whom the RGP appeared to have a more cogent case, see para 56 above) and, I said, would result in a well-resourced legal challenge in which Mr Levy would be represented by leading QCs from London. The DPP advised him to bear in mind the consequences on the prosecution of Perez, Cornelio and Sanchez of losing Mr Levy's co-operation as a witness.

73. We also discussed the courses of action available to avoid a judicial review challenge against the RGP by Mr Levy, while obtaining from him the information that the RGP sought from him and which, the DPP and I felt, would not be forthcoming in an interview under caution. We agreed that an option was to “park” the interview under caution of Mr Levy and instead accept, in the first instance, a voluntary statement from him. It was agreed that the possibility of interviewing Mr Levy under caution subsequently remained an option for the RGP after receipt of the voluntary account and that that would be an operational decision for them to take. My impression was that Mr McGrail saw the sense of proceeding in this manner, and I believe that he proceeded in that way. We also agreed that the RGP would continue to hold Mr Levy’s devices.

My letter dated 5 June 2020 to the Gibraltar Police Authority

74. On 22 May 2020, the GPA wrote to Mr McGrail inviting him to retire. The 29 May Letter was Mr McGrail’s response. A copy of it was forwarded to me by the GPA. When I read it I was shocked by the extremely serious allegations made against me which reflected neither anything that I had said or done, or anything that he himself had said to me before.
75. Accordingly, I wrote to the GPA on 5 June 2020 (MLL1/1-4) setting out my views on, and placing on the record my response to, the 29 May Letter in so far as it made allegations against me. I repeat and confirm the contents of that letter as if they were set out seriatim in this affidavit.

Some further comments on the 29 May Letter

76. In the 29 May Letter, Mr McGrail says that “[f]or many months the AG has been trying (unsuccessfully, we might add) to persuade Mr McGrail to change his and the RGP’s approach to the investigation which would either lead to it being dropped entirely or certain suspects not being prosecuted. Mr McGrail has rebuffed these attempts...” (para 35) (MLL1/18).
77. With regard to the “many months” of alleged interference, the Inquiry is respectfully invited to note that my first contact with Mr McGrail on this matter was on 7 April

2020 (when we had an entirely amicable meeting) and my last one was on 20 or 22 May 2020 (when I assisted him with a reply to Hassans). That is to say, barely 1 ½ months in total, not “*many months*”. Furthermore, we did not speak at all of this matter between 7 April and 12 May 2020.

78. Accordingly, the alleged pressure (or interference) can only have occurred during a period of eight/ten days (12-20/22 May 2020). During those days we had one difficult meeting (13 May 2020) which Mr McGrail completely misrepresents in the 29 May Letter, as I explain in this Statement. The rest of these days the DPP and I were principally advising him in relation to, and defending him from, the onslaught of letters from Hassans.

79. With regard to Mr McGrail having “*rebuffed*” the alleged attempts by me to change his approach to the investigation, this is equally false. No such attempts which required to be rebuffed were made:

79.1 There was no discussion about the appropriateness of obtaining and executing a search warrant against Mr Levy before it happened. There was therefore nothing for Mr McGrail to “*rebuff*”. He did as he wished and I never spoke to him about this matter. My criticism of it was after the event, and could not therefore have amounted to interference such as to seek to prevent it (although in my opinion it should not have happened). It therefore did not need to be “*rebuffed*”.

79.2 The advice that the DPP and I gave Mr McGrail that, given that many of the charges depended on who owned the NSCIS platform, the RGP should seek to obtain clarity on that question before proceeding further was accepted and acted on by the RGP (see para 34 above), and thus not “*rebuffed*”. In any event, it was not interference in a police investigation, still less improper.

79.3 The advice that the DPP and I gave Mr McGrail that the RGP should, in the first instance, accept a voluntary written statement from Mr Levy was accepted and acted upon by Mr McGrail, and thus not “*rebuffed*”. In any event, it was not interference in a police investigation, still less improper.

80. More generally on pressure and interference and any attempt to get the investigation “*dropped entirely or certain suspects not being prosecuted*”, the Inquiry is respectfully invited to have regard to the following:

80.1 I first became aware of the Criminal Investigation, and that Mr Levy (supposedly the individual I did not want prosecuted) was potentially a person of interest, on 13 May 2019 when Mr McGrail himself brought it to my attention (see paras 16-18 above).

80.2 I had no further involvement whatsoever in this matter until about eleven months later (early-April 2020), and then only because the DPP asked to see me about this matter (see para 21 above).

80.3 After that, I had one single meeting with Mr McGrail (7 April 2020) before the RGP executed the search warrants against Mr Levy over a month later (12 May 2020).

80.4 Not once, during that initial eleven-month period (May 2019-April 2020), nor during the period between my meeting with Mr McGrail on 7 April 2020 and the execution of the warrants on 12 May 2020, did I discuss or even seek to discuss any aspect of the Criminal Investigation with Mr McGrail or anyone else at the RGP even though I was in touch with him and he was just a phone call away. I do not consider that this is the behaviour of someone seeking to interfere to protect Mr Levy or, even less, to have an investigation dropped entirely.

80.5 After 12 May 2020, I did express my disagreement and criticism with the decision to obtain the search warrants but still proceeded on the basis that the interview under caution of Mr Levy would go ahead as the RGP wanted (see para 66 above), assisted the RGP in defending itself from the onslaught of letters they were receiving from Mr Levy’s law firm on his behalf, then together with the DPP advised the RGP to accept, in the first instance, a voluntary statement from Mr Levy and agreed that the possibility of interviewing Mr Levy under caution subsequently remained an option for the

RGP and that that would be an operational decision for them to take (see para 73 above).

80.6 Not once did I put pressure on Mr McGrail to discontinue the RGP's investigation of Mr Levy, or, even less, to have the investigation dropped entirely. In fact, it was Mr McGrail himself who raised the spectre of ending the investigation and the prosecution, so long as it was the DPP or I who stopped it, an outcome Mr McGrail told us he would not care about (see para 63 above).

OPERATION KRAM.

81. In the morning of Sunday 8 March 2020 I received a call from Mr McGrail who I understand had been told by the Chief Minister to contact me in relation to a collision at sea that had occurred in the early hours of the morning involving a RGP vessel. I attended New Mole House ("NMH") (RGP headquarters) shortly after receiving Mr McGrail's call. I believe that it must have been at around 10.00 hrs.
82. Mr McGrail, in the presence of other RGP officers, briefed me on what he knew at that stage. Other than the basic facts of what had happened, I do not have a precise recollection of what he told me in relation to the location of the collision and whether it had occurred in BGTW or in Spanish territorial waters. To the best of my recollection, I believe he referred to the fact that there had been a chase that straddled BGTW and Spanish waters, that there had been some element of contact between the RGP and the Spanish Guardia Civil and that it seemed highly likely that the collision had occurred in Spanish waters but that he was waiting for formal, technical confirmation of this. My recollection is that, considering the gravity of the consequences (political and otherwise) of the collision having occurred in Spanish waters, Mr McGrail wanted to be absolutely certain of this and was not assisted by the fact that the RGP vessel's Automatic Identification System ("AIS") appeared not to have been switched on at the time of the collision.
83. At 11.40 hrs I sent a WhatsApp message to Mr McGrail erroneously believing that I was sending it to the Chief Minister. That message does not appear in my WhatsApp

chat with the Chief Minister, but does appear in my chat with Mr McGrail as an original (not a forwarded) transmission. The message read as follows:

[08/03/2020, 11.40 hrs] Michael Llamas:

Been in New Mole for the last hour or so. Cooperation RGP/Spanish LEAs very good. New RGP Press Release today will say good cooperation with ES [Spain], drug related activity, 2 deaths are Spanish nationals of North African descent. Investigation continues. PR will not say where incident occurred but it is virtually certain it was outside BGTW eastern side opposite runway. It also seems that part of the chase was within BGTW.

84. Shortly after that, Mr Nick Pyle, who had previously been, and until a few days ago was still the Deputy Governor, but was the Governor at the time (because the Office of Governor was vacant), arrived at NMH. My recollection is that Mr McGrail told the (then) Governor that he was still not certain where the collision had occurred.
85. The Governor and I spoke later that day and we agreed that we should meet Mr McGrail the following day. Quite apart from the gravity of the incident, we were both also worried about the effect this incident could have on the Brexit negotiations that were scheduled to take place in London that very week.
86. The three of us met at NMH on 9 March 2020 and Mr McGrail briefed us and explained that he was still not in a position to formally confirm where the collision had taken place. I recollect that the Governor asked him why the vessel's AIS system could not confirm this information and that Mr McGrail replied that it was switched off at the moment of the collision.
87. On 11 March 2020 (18.02 hrs), Mr McGrail sent me by WhatsApp message a draft of a report he wanted to send to the Guardia Civil and asked for my views. At 19.09 hrs he sent me a further WhatsApp message which led to the following exchange:

[11/03/2020, 19.09 hrs] Ian McGrail:

HE (Nick) is asking for confirmation of where collision took place as London are keen to know. I have informed him along the same lines that you advised CM ie that is highly likely that it happened outside BGTW.

[11/03/2020, 19.15 hrs] Michael Llamas:

Ian that seems fine to me. Factual whilst being amenable to further precision once you [obtain] further details.

[11/03/2020, 19.33 hrs] Ian McGrail:

[Thumbs up Emoji]

88. After that, I continued to be in touch with Mr McGrail on this matter but it was essentially in relation to the political fallout this incident could have with Spain and the conduct of potential court actions. We were at the time in the midst of Brexit negotiations with Spain and I was concerned that we needed to manage this incident very carefully so that it would not have a negative impact on those critical negotiations. I also provided Mr McGrail with general advice and assistance.
89. On 19 May 2020, the DPP forwarded to me a letter that had been sent to the RGP by Gibraltar lawyers seeking to bring a claim for damages for personal injuries on behalf of one of the individuals in the suspect vessel. This was followed by an email from Superintendent Cathal Yeats to me on 20 May 2020 (a copy of which is now produced and shown to me at **MLL1/63**) seeking funds to outsource the RGP's legal representation. I forwarded this letter to the Chief Minister who replied to me by email on the same day (a copy of which is now produced and shown to me at **MLL1/64**) expressing his great disappointment with Mr McGrail that these issues had not been the subject matter of a detailed submission to him by Mr McGrail, and not authorising expenditure at that stage.
90. Mr McGrail replied directly to the Chief Minister by email on the same day sent at 17.53 hrs (a copy of which is now produced and shown to me at **MLL1/67**) saying that it had never been his "*intention to withhold anything from you concerning this very serious matter*" and that he had provided to him "*an overview on the day of the incident, then engaged with the AG as per your suggestion and have been doing so ever since*".
91. Shortly after sending his reply to the Chief Minister, Mr McGrail and I had this exchange by WhatsApp messages:

[20/05/2020, 18.34 hrs] Ian McGrail:

Michael – aside from Delhi....the CM’s response to our ‘ask’ for legal representation.... I honestly do not know why he has reacted like this. Have you briefed him of our meetings we’ve had on the matter?

[20/05/2020, 18.38 hrs] Michael Llamas:

He is aware you and I have spoken about this. I forwarded to him Cathal’s email to me today since it was necessary in view of the wider issues.

[20/05/2020, 18.39 hrs] Ian McGrail:

Good. But the wobbler he’s thrown is what I do not understand. Anyway, something for me to take up with him. Thanks.

92. On 21 May 2020 the Chief Minister forwarded to me by email a copy of the letter he had sent that day to Mr McGrail requesting him to produce a Factual Report on the incident pursuant to section 15(1)(a) of the Police Act 2006. Mr McGrail produced the Report on 28 May 2020. He forwarded a copy to me on 29 May 2020.
93. On 29 May 2020 I was copied to an email from the Governor to the Chief Minister that attached a graphic taken from a Note Verbale sent by the Spanish Government on this matter (a copy of which is now produced and shown to me at MLL1/72-73). The email referred to coordinates which showed that the collision took place in Spanish waters. The Governor stated: “*Not quite where I was expecting the collision to have taken place*”.

SWORN by the above-named deponent

at Suite 933, Europort, Gibraltar

this 24th day of June 2022

Before me,

Personal Data

JENNY L. ALLEN
COMMISSIONER FOR OATHS
GIBRALTAR

Personal Data

Commissioner for Oaths

This Affidavit is filed by Messrs Peter Caruana & Co of Suite 933, Europort, Gibraltar, solicitors for Michael Llamas.