

**STATEMENT TO THE INQUIRY INTO THE RETIREMENT OF THE FORMER
COMMISSIONER OF POLICE ("THE INQUIRY") BY CHRISTOPHER MICHAEL
COLLINS**

Introductory Comments

1. I am the above named individual and I freely make this statement of my own accord. Whilst I am not sighted on the particular requirements to deliver a 'statement under oath' in the context of correspondence with me, I can confirm that I swear this account is full and truthful and will sign to that extent with my own signature witnessed by a third party at the conclusion.
2. I wish to respectfully note that I am not cognisant of the applicability to me of the Commissions of Inquiry Act 1888, if this is a piece of Gibraltar law; I remain a British Citizen.
3. I wish to respectfully note that during the aftermath of the 'Runway Incident' I was represented by Mr Charles Gomez of Charles Gomez and Co. Materials I provided to him in the course of that representation refer to 2 other officers interchangeably as pertinent at the time, that information is legally privileged and I do not have any permission to release such information from the other 2 officers. If Mr Gomez or his firm have any involvement with the Inquiry, I am not sure how such information should be firewalled but as a matter out of my control I accept no personal responsibility.

Correction of Information

4. I wish to correct a point made in the letter sent to me by Attias and Levy, their ref: SVC/SGC/ILC/I82 dated 26 January 2023. At para 1a, they refer to '*an employee of the UK Ministry of Defence (MOD) who was under arrest*'. At the time, the individual in question had been arrested by service police under my command, but had been released from arrest pending further investigation. Their liberty was not being deprived by the service police. In fact, the decision to return them to the UK was a medical one, given that they were viewed as a vulnerable individual in terms of mental health, the MOD healthcare professionals felt that neither they nor local systems were sufficient to provide for the needs of the individual. This removal did not affect the service police ability to progress their investigation so we deferred to the expert opinion of the healthcare professionals. This distinction is important, in so much as if any decisions/requests by the RGP and/or HMGoG were predicated on the understanding that the individual was in the custody of the service police, it was erroneous – any warrant, request for surveillance authorities or other risk assessments would have been constructed on a false premise.

Context of Statement

5. Whilst recollections may vary and be constrained by the passage of time, there are some facts which are an absolute matter of legal record. This factual hindsight should be the context underpinning this statement. Specifically, after the service police received the evidence at question back from the RGP who failed to find any evidence of offending, we continued our investigation, successfully discovering 40000+ indecent images of children

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and presenting this evidence at the court martial of the arrested individual, who was convicted and received both a custodial sentence and a time on the UK sex offenders register. Contrary to widely dispersed opinion throughout Gibraltar, there was no attempt to shield this individual from justice; rather, the whole actions of myself and the service police under my command, were to attain the timeliest and evidentially safest prosecution of an individual. The actions of the RGP only hindered the time taken to achieve a prosecution.

Response to Question 1a

6. **Arrest of UK serviceman.** In Feb 2017, the Joint Provost and Security Unit (JPSU) under my command received a direct request from the UK National Crime Agency (UK NCA) to arrest a UK serviceman. The individual had allegedly uploaded an indecent image of a child from an IP address corresponding to a physical address in the UK. The UK NCA had attempted to effect their own arrest but the individual was found to have been posted to Gibraltar. As the request had come through informal channels I recall we requested it was made to our policing chain of command, which in this case was Headquarters of Provost Marshal (Navy) (HQ PM (N)). The UK NCA did so and we were then formally directed by HQ PM (N) to carry out the arrest.

7. **Consideration of Jurisdiction.** With the alleged offence occurring in the UK, JPSU service police had jurisdiction from the Armed Forces Act 06 to make the arrest. Coincidentally, in the weeks running up to the events described, I had been at a non-related meeting with Mr Ricky Rhoda QC, discussing jurisdictional issues surrounding an alleged offence by a member of the Royal Gibraltar Regiment whilst on a training exercise in the UK. In the course of those discussions, Mr Rhoda opined that the RGP had no jurisdiction over persons whose offending took place in the UK. As the offence the UK NCA asked us to investigate allegedly occurred in the UK, I took Mr Rhoda's advice to equally apply in this situation.

8. **Arrest and first contact with RGP.** On receipt of direction from HQ PM (N), JPSU service police planned an arrest operation, I believe this was Friday 03 February 2017. On making the arrest, the arresting officer advised that the suspect was in a bad way, physically shaking, and may be considered at risk of self-harming. As we did not intend to keep the individual in custody once the search was complete, I directed to inform the RGP of the arrest. This was for 2 reasons – if said individual was subsequently arrested by RGP for any other offences, I wanted them to be aware for their own vicarious liability that the individual had been subject to arrest and may be at risk of self-harm. This was purely a professional courtesy to ensure their risk assessments could be made as fully as possible. Second, I requested that any electronic media seized in a subsequent arrest, could be noted as being connected to an extant service police investigation. I believe the contact with the RGP, through the Duty Desk, was made on the Friday.

9. **Further Contact with RGP.** On the Monday (06 February 2017) immediately after I had a request to meet with the then Detective Inspector Wayne Tunbridge to discuss the arrest. DI Tunbridge expressed discontent that we had carried out the arrest without reference to the RGP. I would have explained that as the alleged offence occurred in the UK, there was no jurisdictional aspect for the RGP to be involved with. I do not recall

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much detail of the discussion, I remember DI Tunbridge asking 'what's to stop us arresting him out from under you?' and my response being 'nothing but the courts may take a dim view of police forces trying to take two bites of the same cherry'.

10. **First Contact with Chief Superintendent McGrail.** Subsequent to the discussion with DI Tunbridge, I had at least 2 interactions with the then Chf Supt McGrail. I believe one was a telephone call, and one was a face-to-face meeting in the presence of Colonel Frank Green, Chief of Staff (COS), British Forces (Gibraltar). Again, I do not recall the exact content but several pertinent points are as follows. First, Chf Supt McGrail asked me to consider a joint investigation. This I turned down, on the basis of the lack of RGP jurisdiction described above. Second, Chf Supt McGrail pointed out that if images were found on any laptop held by the suspect in Gibraltar, then the possession of the above whilst in Gibraltar would be an absolute offence locally. I conceded this point and offered that any images discovered by our own forensic exploitation would be disclosed to the RGP. After some time and I believe, at the second conversation, Chf Supt McGrail began to opine that the UK Armed Forces Act was not applicable in Gibraltar. Noting this was not his position at the outset where he explicitly requested a joint investigation, I felt this interpretation was very biased, limited, erroneous, not subject to legal basis and merely an attempt to coerce cooperation. In the course of these discussions, I acknowledge making a comment along the lines of 'what's to stop us flying (the suspect) back to the UK?'. This comment made in the cut and thrust of some heated conversations, was made in the same spirit of DI Tunbridge asking 'what's to stop us arresting him out from under you?' I concede this was unprofessional on my part, but, did not represent any mens rea on my part to ensure the suspect eluded justice. This is entirely born out, as per my comment at para 5 above, by the recommencement of our investigation at the earliest moment and our achieving a conviction.

11. **Decision to use a RAF aircraft to transfer evidence.** At the time, it was standard practise for all JPSU evidence that required specialist forensic exploitation, to be returned to the UK. For timeliness and to maintain chain of possession, where the British Forces Post Office was inappropriate, a service police Non-Commissioned Officer (NCO) would be flown back to the UK with the evidence. In this specific incidence, I was personally concerned following the conversations with Chf Supt McGrail, that the RGP would make some attempt to seize the evidence on some grounds, if transiting through the civilian terminal. My specific concern was that the RGP's evidence handling procedures were not the same as ours and they may irrevocably 'taint' the evidence rendering it inadmissible and thus jeopardising any conviction. This was exacerbated by the fact that digital evidence was present. During my training and subsequent courses, it had been explained that even the act of turning on a computer changes the file structure in minute ways that can be challenged by a legal defence. Whilst I fully admit to not being a digital forensic expert, my absolute priority was to ensure it was only handled by a suitably qualified and experienced person and to do so, it had to be managed within force. I checked with Flight Operations within RAF Gibraltar if any RAF cargo planes were inbound, and one was on Wednesday 08 February 2017. At this point I requested my NCO be allowed to fly back with the evidence. I note this flight was pre-planned and on official record from some point in January 2017, contradicting some public opinion in Gibraltar that the MOD flew it in specially.

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12. **Runway Incident.** On Wednesday 08 February 2017 the runway incident took place. I believe I was initially at RAF Gibraltar when the RGP blocked the runway with a vehicle. There was then a period of extended consultations between myself, Provost Marshal (Navy) who at the time was Commander Jack Hawkins Royal Navy Police (RNP) and the COS. In the course of these consultations COS received a direct order from His Excellency the Governor General Davies, in his capacity as Commander-in-Chief of Gibraltar, to hand the evidence to the RGP. COS passed this order onto me, I explained that the service police stand outside the chain of command for the purposes of investigations and therefore I must respectfully refuse on the grounds that I considered it to not be a lawful command.

13. At some point I was informed Chf Supt McGrail had arrived at our unit located at Gun Wharfe on the MOD Naval Base, with multiple personnel and a warrant to seize the evidence in question. More conversations took place between myself and Provost Marshal (Navy). I wish to note that, corporately the service police did not view the Warrant as having been 'executed' or served in a manner recognisable to British policing methods. Specifically, had we recognised the warrant had been served, we would have instantly complied with the transfer of evidence. There was a delay in this which, had we not been complying with a/the warrant, we would have expected to be subject to arrest or other sanction and the evidence forcibly seized. Neither thing happened.

14. Eventually Provost Marshal (Navy) instructed me to hand over the evidence, in order to avoid the precedent of a force serving a warrant on another. As he was my superior officer in the policing chain of command I considered this a lawful command and complied. We requested that our officers be kept apprised of the forensic process and for several weeks afterwards there was either verbal updates or a visit by JPSU personnel to the RGP forensics to discuss the matter. As the RGP officers left with the evidence one, possibly DI Tunbridge, even joked 'we would be laughing about this matter over a beer' in the near future.

15. **Legal Considerations of Runway Incident.** Whilst not claiming to be an expert in either civil aviation law nor Gibraltar law, the encroachment onto the runway whilst an aircraft was taxiing, would seem to be a vastly disproportionate act in pursuit of evidence in support of a simple case of possession of an indecent image which Chf Supt McGrail had asserted was the grounds for RGP interest, especially given there were no attempts (to which I was privy) to apply for a court-imposed resolution. This disproportionality also applies to any use of surveillance powers conducted by RGP in the course of that day. I note I have had no official notification of RGP surveillance but it was the subject of conjecture that they may have employed directed surveillance tactics from either a multi-story car park in Devil's Tower Road, or the Eroski Super Market. If however, RGP had already commenced an investigation into alleged perverting the course of justice (for which myself and other officers were later arrested) the time lag between the runway incident and arrests would seem huge if the grounds existed for tactics used at the time of the Runway Incident. Further, I was informed that the RGP's initial application for a warrant was refused by the judge in question but was granted at a second hearing. Given there was no change in intent or behaviour from any party I was involved with, I don't know what supplementary information would have tipped the balance at a second application. Again I have no personal knowledge of the RGP warrant procedures at the time, and no

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recollection of who told me they had applied twice to a judge – this may be erroneous information.

Response to Question 1b

16. In the weeks following the Runway Incident, relations between the RGP and JPSU were strained but professional, with the RGP keeping the JPSU abreast of their attempts to forensically exploit the evidence. However, after some period (I forget how long) the British Forces Gibraltar chain of command began to brief that the atmosphere had changed and, due to the negative feedback caused by the tailbacks caused when the RGP blocked the runway, that the RGP would potentially take some form of action with the aim of forcing an apology of some sorts. I forget who told us and the exact information imparted, certainly it was implied this was done with the knowledge of HMGoG. Eventually, matters came to a head where His Excellency General Davies, met with myself and the other 2 officers arrested and informed us it was incredibly likely that RGP was moving towards arresting us for obstruction. In the course of the conversation it was agreed that the MOD would provide funding for legal cover, given that our actions fell out of our duties. Within 2 days I was provided contact details of Charles Gomez and Sons who subsequently represented me.

17. **Day of Arrest.** On returning from a duty trip to the UK, I was arrested at Gibraltar Airport by DI Tunbridge on suspicion of perverting the course of justice and conspiracy to pervert the course of justice. DI Tunbridge allowed me to inform my wife who was waiting to collect me and then conveyed me to New Mole Police Station in an unmarked vehicle. I was held for a period of several hours, then subjected to interview for what seemed like several more. I was then released on bail.

18. **Comment on Arrest Procedures.** I found there to be several RGP procedures in the course of the arrest, to diverge from my understanding of UK Home Office procedures, that I had understood the RGP followed as best practise. These were as follows:

- a. DI Tunbridge did not place me in handcuffs, neither did he conduct a person search for items that could be used to assist an escape, or to endanger myself, the public or the arresting officers.
- b. He was not using rubber gloves.
- c. On seizing my personal mobile phone he put it directly into his inside jacket pocket without securing it in an evidence bag suitable for electronic goods.
- d. The unmarked vehicle had no custody fittings in the back, nor any sign it was even a police vehicle and was markedly shabby. If it was not a police vehicle I am not sure if the insurer covered passengers in lawful arrest.
- e. The custody sergeant, whilst seizing some of my possessions and booking them into property, left in my possession, an internet enabled kindle e-reader that had mail functionality and thus could have contained evidence of the alleged

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'conspiracy' for which I was arrested. This even though I told him it was in my hand luggage.

f. Myself and the other personnel arrested were not locked in cells with closed doors, the doors were left open.

g. My married quarter was not subject to any entry search and seizure. If I had been conspiring to pervert the course of justice, it would seem inconceivable that the investigation supervising officer would have only considered lines of enquiry in my work environment.

h. RGP seizures included UK MOD classified and encrypted computers which to my knowledge, they had no way of accessing nor did they make any attempt to engage outside agencies to attempt to access – the seizure was nugatory.

i. Arrested from an early evening flight, I was put into interview very late at night and released in the early hours of the morning. This was unnecessarily oppressive. Given items of supposed evidential value had been seized already, there would have been no impediment to releasing me on bail and bringing me back for interview once rested.

19. I wish to restate and make explicitly clear that the differences in approach described at paras 18a-18h above, exemplify the reasoning behind why I did not wish to share evidence seized in the first place – the divergence between our approach and the RGP approach may have led to unnecessary risk in the soundness of any investigation, and thus jeopardised justice for the victims.

20. **Execution of Warrant on Other Members of JPSU.** Simultaneously to the arrest of myself and other officers, members of JPSU had warrants served on them. Whilst I was not present (being in arrest) I understand that the warrants were served at Gun Wharfe on the Naval Base. At least one of my personnel was then compelled to go against their will, with RGP in unmarked cars, from the Naval Base, to their own married quarters, to recover their personal mobile phone which was seized. This was notable to us as service police and thus followers of UK Home Office methodology. Search warrants usually apply to a specific location and we had never encountered 'elastic warrants' enabling police forces to carry persons not in arrest, in police vehicles, effectively depriving them of their liberty, distances a mile away from the executed warrant, to recover items. Further, if this was both proportionate and necessary, it again begs the question raised at 18g above – why were my colleagues married quarters subject to entry and seizure, when they were not arrested, when my married quarter was not and I had been?

Aftermath of Incidents

21. After a period of time following negotiation between the UK Foreign and Commonwealth Office (FCO), the UK MOD, HMGoG and the RGP, myself and the 2 other arrested officers were released without charge from our bail conditions and all items seized were returned. The RGP eventually finished their attempts to exploit the laptop we had seized without finding any evidence, the individual was personally informed he was no

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longer a suspect in any RGP investigation. On receipt of the laptop from RGP, we then immediately submitted the laptop to our own forensic chain which subsequently found (to my recollection) over 40000 indecent images of children covering categories A-C. This resulted in the conviction of the individual involved.

22. **Failure of RGP to Find Images.** One can only guess why RGP forensics did not recover sufficient evidence to achieve the conviction achieved by the service police. On consideration I offer the following analysis:

- a. RGP actually found images but for reasons unknown protected the offender. I discount this as very unlikely.
- b. RGP found images but they were not of evidential value in the Gibraltar legal system. I discount this for 2 reasons. First I would have expected the RGP forensics to alert us they had found anything. Second the standard of evidence is likely to be analogous to the UK courts where a conviction was later achieved.
- c. RGP equipment was insufficient to recover the images, irrespective of their level of training or skill.
- d. RGP personnel levels of training or skill in using that training was insufficient, irrespective of the standards of their equipment.

Conclusion of RGP Failure

23. The failure of RGP to find a raft of images subsequently found by another law enforcement agency leads me to 2 personal conclusions. First that had the suspect and evidence been left with the service police, the conviction would have been achieved earlier, by the margin of days between the handing of the evidence to the RGP on 08 February 2017 and when the service police received the evidence back. I have no exact recollection of this delay but believe it was some 16 weeks, during which the suspect was at liberty to continue offending and thus presented a real and present danger to the citizens of Gibraltar. Second, that responsibility for this delay sits personally and unequivocally with whichever RGP officer made the decision to intercede in the service police investigation. I am not sufficiently sighted on the RGP supervisory chain at the time to assess who that officer was. Finally, the question should be considered if any other suspects in prior/subsequent cases, avoided justice through RGP forensics not finding images which another agency's processes or equipment would have found.

Interaction with other persons listed

24. The following paragraphs list my interactions with other persons listed. I comment by exception and as such if I have no recollection of any relevant interaction I have not commented.

25. **Mr Edward L Yome.** After the return of the evidence to JPSU, there was consideration of the claim by Chf Supt McGrail of an existing jurisdictional lacuna regarding service police activities. One solution posed was the adoption of all warrant

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card carrying members of JPSU to be sworn in as special constables of the RGP. A similar arrangement applies in the Falkland Islands. We all presented at Mr Yome's office to be sworn in however, when he explained the application of the oath necessary, it became apparent it clashed with both our attestation oath and our separate oaths as service police officers, the swearing in never took place. I mention this as I found it notable that Mr Yome was willing to personally swear me in as a special constable, where only weeks previously his organisation had accused me of attempting to pervert the course of justice. If this was a serious allegation, how was my integrity now adjudged to be suited to serving the RGP as a special constable?

1bviii – Any other Members of HM Armed Forces

26. **General Sir Christopher Deverell.** Following the resolution of both incidents and the release of my self and others from bail without charge, Gen Deverell, in his role as Commander Joint Forces Command (and thus in charge of British Forces Gibraltar) visited Gibraltar and was present at a working breakfast held in the Convent. This included myself, the other arrested personnel and members of JPSU who had warrants executed against them. At this breakfast the General informed us that the Chief Minister Mr Fabian Picardo, had agreed to an independent inquiry to look at the circumstances surrounding events from both the UK and Gibraltar perspective.

27. **Other arrested personnel.** I had regular and repeated contact with the other arrested personnel throughout. I should note that this contact did not represent the criminal conspiracy alleged by the RGP at the time, this was entirely normal consultations between military hierarchies during a complex and sensitive situation. Both the UK Armed Forces Act and (then) Queen's Regulations, place a requirement on individuals, irrespective of rank, to assist the service police in the course of an investigation. All actions conducted by both other arrested personnel were consistent with that requirement and the responsibility for the actions of them and the JPSU personnel under my command, remain my personal responsibility, which in turn was guided by legal advice or direction I was in receipt of, from my policing chain of command, HQ PM (N).

28. I have no regular direct contact with the other arrested personnel. One remains serving and one is retired. As I am not sure what of our joint consultations remains within the bounds of their own legal privilege, I have not mentioned them by name and the Inquiry should make any requests for their participation to the UK MOD in the first place.

29. **Commodore Mike Walliker OBE RN.** Commodore Walliker in his role as the incumbent Commander British Forces, discussed my personal welfare several times throughout and after the ongoing incidents. I do not recall him offering direction directly on the day – he may even have been off the Rock. However, later in 2017 when presenting me with the RAF Long Service and Good Conduct Medal, in the Tower, HM Naval Base, Commodore Walliker described the actions of the RGP in the Runway Incident and subsequent arrests, as 'egregious'.

1bxiii – Any UK Ministers

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30. **Mark Lancaster, Baron Lancaster of Kimbolton, Minister of State for the Armed Forces.** At some between 2017 and 2018, Mark Lancaster, prior to his ennoblement and in his incumbency as minister, visited Gibraltar. In a direct conversation for me, he confirmed what had been hinted to the members of JPSU for some time; specifically, that the Chief Minister Fabian Picardo had reversed his position and now no longer supported an independent inquiry into the events of both incidents.

Other Relevant Information

31. I wish to state the following pieces of information I consider of relevance:

a. In the course of discussions prior to the Runway Incident a lawyer of the Service Prosecuting Authority, ranked either Lieutenant Colonel or Colonel, affirmed to me personally that our understanding that we had a legal jurisdiction was correct. I considered this to be legal advice. I no longer possess this male's details.

b. Throughout the time of my arrest and bail by RGP, I was never suspended in my capacity as a service policeman. My owning chain of command, the Royal Navy Police, operated a Professional Standards Department who I understand attended the Home Office courses for such duties as is provided to UK Home Office Constabularies. It was their opinion in accordance with those standards, that the allegations investigated by the RGP were entirely without merit hence no decision to suspend me.

c. Later in 2017 I was presented the RAF Long Service and Good Conduct Medal, only presented to those whose previous 15 years conduct was considered unblemished by the military.

d. The UK MOD decision to provide legal cover for me and the 2 arrested officers shows they viewed that we were not 'on a frolic of our own' – we were considered legitimately to be executing our respective duties to the best of our knowledge at hand. Given affirmation of our status, we would have fallen under the legislation of the United Kingdom Forces (Jurisdiction of Colonial Courts) Order 1965. Under this legislation, responsibility for the prosecution of service personnel accused of offences would have fallen to courts outside of Gibraltar unless several caveats had been reached. I am not aware RGP was in receipt of the necessary legal advice to progress their investigation.

Summary

32. Considering the events and contexts given above, I attribute the delay in reaching a conviction in the original investigation, directly to the actions of the RGP, and conclude this delay posed a risk to the populace of Gibraltar, both local and military, in permitting an offender to remain at large.

33. I further consider that the RGP investigation into offences levelled at me, was entirely without merit, did not possess authority from the relevant prosecuting body given the legal status of the alleged offenders, and seems to have been retaliatory for the

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embarrassment caused to the RGP by their possible contravention of civil aviation law in blocking the runway and causing large delays to the populace, itself disproportionate in view of the substantive offences in question. The actions of the RGP officers throughout the arrest, seems to bear out that they did not consider myself or my colleagues 'true' suspects or they would have at least locked our cells, indeed the atmosphere amongst the rank and file officers was one of deep embarrassment. If I was a genuine suspect in an offence relating to my integrity, why was I then offered the opportunity to be sworn in as a special constable?

34. My intentions in not wishing to commence a joint investigation are explained above, but are reaffirmed with the benefit of hindsight – as soon as I possibly could I ensured the submission of evidence into a UK forensic chain and enabled a successful prosecution that the RGP failed to do themselves.

I certify that this statement, consisting of 10 pages signed by me, is true and accurate to the best of my recollection.

Signed: Personal Data

Christopher Michael Collins, Squadron Leader, Royal Air Force

Dated: 08 FEB 23

I certify I witnessed the signing of this statement.

Witness Personal Data

Dated: 8 Feb 23

Signed: Personal Data