Ministry of Defence

MOD Form 266A/B
(Revised 02/21)
PPQ = 100

Investigation Reference No:

SERVICE POLICE WITNESS STATEMENT

(CJ Act 1967, S9; MC Act 1980, ss5A (3a) and 5B; MC Rules 1981, r70)

Statement of: Scott O'MALLEY

Rank/Status: FS

Age if under 18: over 18 (if over 18 insert 'over 18') Occupation: HM Forces

This statement (consisting of 5 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signature: Personal Data Date: 10 NOV 22

I am the above named individual and my full details appear overleaf. I am currently employed as SNCO Security Section at Joint Service Police and Security Unit (JSPSU), Mount Pleasant Complex (MPC), British Forces South Atlantic Islands (BFSAI), a position I have held since 29 Jun 22. I am due to return to my home unit, RAF Honington on 28 Dec 22.

I wish to record the details of an incident which occurred whereby shortly after being tasked by the NCA and Leicestershire police to investigate a Service Person in Gibraltar accused of possession of Indecent Images of Children, the Commissioner of Police, Ian McGrail, RGP, applied for warrant as senior investigator in to Conspiracy to pervert the course of justice. Detective Chief Inspector, Wayne Tunbridge, RGP, executed a warrant at Joint Provost Security Unit (JPSU) offices, Gunwharf, HM Naval Base and 19 West Walk, Europa Point (my Service Families Accommodation) on 1 Mar 17, between 14:00 and 15:40.

I believe that DCI Tunbridge acted outside the remit of the warrant that was served on JPSU by seizing my personal devices from my home address, neither I or my home address were specified on the warrant, I did not consent verbally or in writing to this, he breached both the human rights act (Article 8) in relation to the named people involved and also Para 5.3 of Code B – Codes of Practice. I also believe I was unlawfully detained for a period of time at JPSU and also within my own house whilst my personal items were being seized.

On 1 Mar 17 it is my belief that the RGP clearly acted outside the extent of a Warrant that was served upon my place of work, taking personnel either to their private motor vehicles, private home addresses or private living Accommodation to make various seizures of Private Mobile phones and other articles. It is my belief that the RGP had no lawful

Signature: Personal Data Signature witnessed by:

Continuation of statement of **Scott O'MALLEY**

authority to seize private mobile phones and unlawfully and illegally entered private premises and vehicles to seize such items.

The RGP were acting under a warrant that legally entitled them to enter premises situated at JSPU, Gun Wharf, and upon Sqn Ldr Chris Collins whom was not present at the scene. It did not extend to the RGP escorting Mrs Bell to a private motor vehicle to seize an article, it did not extend to RGP escorting Mr McDonald to his private motor vehicle, in order to seize his private mobile phone, it did not extend to the RGP escorting me to my family home at Europa Point and entering those premises, to seize my private mobile phone and it did not extend to the RGP escorting Miss Buehling to her private living accommodation at Devils Tower Camp, entering those premises and seizing her private mobile phone. I also contend that such an escort in these circumstances amounts to an infringement of our liberty and of our free movement and could be considered as an unlawful 'detention' under such circumstances.

More broadly under civil terms under the direction of Mr McGrail, RGP officers have breached my human rights under Article7/8 of European Court of Human Rights (ECHR) and Article 7/8, Human Rights Act (HRA) 1998.

I was never under arrest or accused of any crime, however; my personal mobile phones were seized thereby breaching any rights to privacy.

I complained about the unprofessional way the search was conducted. The RGP did not wear any PPE, not even the minimum of a pair of gloves were worn, no photographs were taken of the articles prior to them being seized and more disturbingly, no information was ever sought regarding the occupants of a private home addresses which included my wife and four year old daughter. No justification was ever given on what articles were seized or not seized. No Explanation was ever given to me regarding the powers used to seize or retain such articles.

Below is an accurate précis of the events that occurred on 1 Mar 17,a copy of the warrant served can be provided if required.

At approximately 13:40 on 21 Mar 17, Mrs Claire Bell received a T/C from DCI Wayne Tunbridge who stated she was required to attend JPSU at Her Majesty's Naval Base Gibraltar, she was instructed to round up her team and that he had a Warrant to conduct a search of JPSU and that he would explain further upon her arrival. He said he would not enter until her arrival.

At 14:00, upon request of the RGP, I escorted the RGP into JPSU offices. DCI W Tunbridge, RGP spoke to me when they were interrupted by another RGP officer who stated "has the Warrant been served?" to which DI Tunbridge stated "yes".

Signature: Personal Data

Signature witnessed by:

Continuation of statement of **Scott O'MALLEY**

The warrant was applied for by Det Sup McGrail on 24 Feb 17 and signed by the magistrate on 27 Feb 17 at 12:20. The name of the person subject to the warrant was Chris COLLINS Provost Marshal Gibraltar. It stated the warrant was to enter the premises situated at "Joint Provost Security Unit, Gun Wharf" and search for "Mobile Phones, data storage media devices, day books, pocket books from all personnel involved in the investigation instigated by JPSU on Timothy Watterson and any other documentation or other items in relation to this mentioned investigation".

I expressed at the time my serious concerns about the legality and necessity of the warrant and expressed concerns about having to surrender my personal mobile device.

At 14:05 Mrs Claire Bell, liaised with DCI Tunbridge. Again the Warrant was served on her she stated her disbelief and "you are just about to serve a warrant on another policing agency, can you at least speak with Deputy Provost Marshall (Navy) (DPM (N))?" DCI Tunbridge stated that a decision had come from higher (Mr McGrail) and that he was serving the Warrant and that DPM (N) needed to speak with the Commissioner not him. Mrs Claire Bell signed and was given the copy of the warrant.

Both Mrs Bell and I continued to express concerns to DCI Tunbridge. He stated that the decision had come from higher up and was only acting on orders. He stated that he had no choice but to carry out the warrant. This statement did not seem very genuine.

At 14:17, Mrs Bell was escorted out of JPSU offices to a vehicle which was parked outside JPSU, where they took possession of her Service Police Notebook. No warrant was produced to enter the vehicle. Mrs Bell was then escorted back into the JPSU building and at 14:25; her private personal mobile device was seized, which contained personal information. Mrs Bell handed her mobile device over under duress and without consent either written or verbal. Mrs Bell expressed at the time serious concerns about the legality and necessity of the warrant and about having to surrender her personal mobile device, when she questioned the police officer at the time "why they are taking her personal phone" he replied "because they needed it".

At 14:19, Mr A McDonald was escorted out of JPSU to his vehicle, which was parked outside JPSU, where they took possession of his personal mobile device, containing personal information. No warrant was produced to enter the vehicle. On completion of the search of Mr Macdonald's office he requested if he could leave as he had arranged to go in to Town with his wife. This request was denied by RGP who stated that they would rather remain until the search of JPSU was completed. Mr McDonald was not in arrest and his liberty was denied.

At 15:15, I again spoke with DCI Tunbridge challenging the requirement to seize my personal phone, as I was not in arrest, I again expressed my concerns and the property they were demanding were at my home address 19 West Walk, Europa Point.

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Continuation of statement of **Scott O'MALLEY**

DCI, Tunbridge stated that I would be escorted to his home address by an RGP officer and I was to hand them over there. At 15:16, I departed JPSU in company with an RGP officer to produce my mobile phones. At 15:38, I entered my home address, the RGP officer entered behind me, uninvited and in front of my worried and distraught wife, Mrs Kristina Koeva-O'Malley and my four year old daughter, Philippa O'Malley, upon request and in fear of being arrested I handed over under duress and without consent either written or verbal, my mobile devices, duty mobile phone and service police notebook. The RGP officer did not identify himself, he did not show me his warrant card, he did not state the grounds for taking my property, he did not tell me what offence was being investigated or what part he believed I played in it, he did not explain what would happen to my property and did not give me a receipt for the property. I subsequently returned to JPSU. I was not in arrest at any time however during the course of their actions that day I believe that I had been unlawfully detained, against my will at least between the hours of 14:00 and 15:40 on Wed 1 Mar 17.

At 16:00, Miss L Buehling was escorted out of JPSU and escorted by RGP to her living accommodating at Devil Tower Camp, (DTC) in order to surrender her personnel mobile device, which contained personal date. Miss Buehling expressed her concerns at the time even stating "she did not want to hand over her personal phone" but she was informed by RGP that "she had to". She handed over her phone without consent either written or verbally and under duress. Miss Buehling subsequently returned to JPSU. Miss Buehling was not in arrest.

I made a complaint on two primary grounds but with each amounting to various breaches namely:

1. The RGP had no lawful authority to seize private mobile phones and have unlawfully and illegally entered private premises by which to seize such articles. The RGP were acting under a warrant that legally entitled them to enter premises situated at Joint Provost Security Unit, Gun Wharf – it did not extend to the RGP escorting me to my SFA at Europa Point entering those premises and it did not extend to the RGP escorting Cpl Buehling to her SLA at DTC and seizing her private mobile phone. I also contend that such an escort in these circumstances amounts to an infringement of liberty and of their free movement and could be considered as an unlawful 'detention' under such circumstances.

2. More broadly under civil terms RGP officers have breached the human rights of JPSU staff under Article7/8 of ECHR and Article 7/8, HRA 1998. MAA Bell, FSgt Macdonald, Cpl Buehling and I were not arrested however personal mobile phones were seized thereby breaching any rights to privacy, correspondence, letters, telephone calls and emails etc.

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Continuation of statement of **Scott O'MALLEY**

This whole incident has affected my sanity, health and wellbeing and has been a very difficult and stressful time.

Previously, on the day of the 'Runway Incident' Ian McGrail had entered JSPU and threated me in that he had arrested Police Officers in the past and would not hesitate to arrest them again. I assumed that this would have been in the case of them breaking the law, being as I was simply doing my job, I found his comments to be threatening and extreme for the situation. The RGP took over the investigation of Sgt Watterson and found no evidence of wrongdoing, the case was subsequently handed back to Royal Navy SIB, UK whereby at court, Sgt Watterson was found guilty of possessing Indecent Images of Children and sentenced to 2 years 11 months in prison. Although Mr McGrail may have thought he was acting in the best interest of justice, he and the RGP held up a military police investigation by 16 weeks.

If my complaint had been taken more seriously at the time, I believe that the subsequent actions of Mr McGrail, including his involvement in allegations of bullying, corruption/fraud and two deaths, these could have been avoided.

Personal Data
S O'Malley
SNCO Sy Section
JSPSU

Signature: Signature witnessed by:

MOD Form 266A/B
(Revised 02/21)

SERVICE POLICE WITNESS STATEMENT

Section 1				
Full Name:	Scott O'Malley	Service No:	K8433369	
Unit/Home Address or contact details:	[redacted]			
Home Telephone No:		Work Telephone No:	+500 007 6328	
Mobile Phone No:	[redacted]	Email Address:	[redacted]	
Date of Birth:	[redacted]	Gender:	M	
Place of Birth:	Derby	Height:	185cm	**ETHNIC CODE -LEGEND (IC)** 0 - Not Known 1 - White (skinned) European 2 - Dark (skinned) European 3 - African/Caribbean 4 - Asian 5 - Oriental 6 - Arabian 7 – Other
Maiden Name:		Ethnic Code: (IC No):	1	
Statement recorded by:	Self recorded			
Unit:	JSPSU			
Place:	BFSAI			
Date and Time:	10 Nov 22, 10:00			

Section 2
Dates to be avoided of the witness named on this statement - (i.e, leave, course, etc):

Section 3		
Consent		
(i) **(Victims only)** The information recorded above will be disclosed to Victim Support so that they can offer help and support, unless you ask them not to. Tick this box to decline their services:		☒
~~(ii) **(Victims only)** The Service Justice System and Victim Personal Statement scheme have been explained to me~~	~~Yes ☐~~	~~No ☐~~
~~(iii) **(Victims only)** I have been given the Victim Personal Statement leaflet~~	~~Yes ☐~~	~~No ☐~~
iv) I understand this statement may be used in criminal proceedings and I may have to provide evidence in court or other disciplinary proceedings	Yes ☒	No ☐
v) I consent to the statement being disclosed for the purposes of civil proceedings e.g. childcare proceedings, Criminal Injuries Compensation Authority, Service Personnel & Veterans Agency etc.[2]	Yes ☒	No ☐
(vi) I consent to the statement being disclosed for the purposes of Service administrative proceedings e.g. Service Inquiry, Administrative Action.	Yes ☒	No ☐
Victim Update		
The Service Police will routinely update victims of crime during an investigation, unless you decline this offer. Do you wish to receive updates on the progress of the investigation and significant events?	Yes ☒	No ☐
(If yes) Updates are usually provided monthly, or when significant events occur, such as the arrest of a suspect or conclusion of investigation. **Please indicate below the frequency you wish to be contacted and by what means:**		
Monthly and significant updates ☒ / Only for significant updates ☐ / Only at the conclusion of the investigation ☐ / Other ☐ (Please detail frequency)		
Please indicate below how you wish to be updated on the progress of the investigation:		
Telephone ☒ / Email ☒ / Postal correspondence ☐ / Other		
Signature of Witness: [redacted] Personal Data	Print Name:	SCOTT O'MALLEY
Signature of parent/guardian/appropnate adult:	Print Name:	
Service Police Actions		
(i) Is the individual vulnerable (under 18, mental disorder, learning difficulty, physical disability/disorder)?	Yes ☐	No ☒
(ii) Is the individual in fear or distress about giving evidence?	Yes ☐	No ☒
(iii) Is the individual a victim of the most serious crime (exhaustive list contained at Part 2, Para 44 of JSP 839)	Yes ☐	No ☒
(iv) Is the individual a persistently targeted victim (targeted repeatedly and directly over a period of time, particularly if a victim of a sustained campaign of harassment or stalking)	Yes ☐	No ☒
~~(v) If yes to any of the above, tick to confirm a victim/witness needs assessment has been completed prior to recording the account.~~	☐	
(vi) Have the details of the Service Police Investigator been provided?	Yes ☒	No ☐