

Inquiry into the Retirement of the Former Commissioner of Police

This statement under oath consisting of eight pages each signed by me is true to the best of my knowledge and belief and I make it at the request of Mr Stephen V Catania of the firm of Attias & Levy, the duly appointed Solicitor of the Inquiry commissioned to ascertain the reasons and circumstances leading to Mr Ian McGrail retiring in June 2020 as Commissioner of Police by taking early retirement (“the Inquiry”).

BACKGROUND

1. I, Edward L Yome, terminated my service with the Royal Gibraltar Police (“RGP”) on the 30th day of April 2018, having completed forty-six years of service with said police force, four of which I served attached to Thames Valley Police in England.
2. I terminated service with the Royal Gibraltar Police with the rank of Commissioner of Police. I was appointed to that post on the 9th day of April 2012 and originally my term of office was to be for a period of five years. However, towards the end of that five year period the Gibraltar Police Authority (“GPA”) requested, and I agreed, to extend my term of office for a further one year period. I therefore terminated my service with the RGP in April 2018.
3. My successor as Commissioner of Police was Mr Ian McGrail (“Mr McGrail”) who at the time held the rank of superintendent and was the head of the Crime Department. His selection as Commissioner of Police was confirmed in December 2017 but he did not commence his term of office until May 2018. During December 2017 to April 2018 inclusive Mr McGrail continued to work from his own office.
4. On my leaving office my RGP e-mail account was closed and therefore I have had since then no access to whatever e-mails and documentation was and/or may be in said account. I handed over the safe keys to Mr McGrail and took no notes, correspondence, records or documentation with me on leaving office. I did take with me all personal belongings that I had in the office, eg certificates of courses attended, photos and wall plaques; all of which I proudly keep at home.
5. I have been requested by the above-mentioned Mr Catania to prepare and produce this statement under oath for the purposes of the Inquiry. I am perfectly happy to do so and to provide whatever further assistance is required by the appointed Commissioner of the Inquiry. Having said this, I would at this point make the following comments:-
 - (i) I have been asked to comment on two incidents that occurred in February 2017 and March 2017 during my tenure as Commissioner of Police, both incidents having occurred some one year before Mr McGrail’s appointment as Commissioner of Police, and some three years before his resignation as Commissioner of Police, and consequently it is difficult for me to see the relevance of either matter to whatever occurred three years after I had left office as Commissioner of Police; and

- (ii) as stated above, on leaving office I did not take with me any notes, documentation or records and this, together with the fact that the incidents in question occurred some five years ago, means that exact recollection of details, names, dates, sequence of events and times is not possible and at times my recollection of events may be out of sequence and/or somewhat vague. Obviously, if I am referred to other persons recollections and/or to documentation that was held/prepared at the time this may assist me in recalling events and/or incidents, especially with regard to the March 2017 event (see below).

APPOINTMENT OF MR McGRAIL

6. Prior to the GPA selecting Mr McGrail as commissioner of police I was requested by the GPA to prepare a report on all the persons who had submitted an application for the post. This I did, and in said report I expressed my personal opinion on the strengths and weaknesses of each individual candidate. In said report I did not make any recommendation as to who should be appointed and neither did I express an opinion as to who was the preferred or preferable candidate. Once I handed in the report in question to the GPA I took no further part, active or otherwise, in the selection process and neither do I recall having any conversation with anyone with regard as to who should be selected.
7. Having said this, I do recall that at one point I received a telephone call from His Excellency the Governor who informed me that the GPA had decided on the appointment and requested me to attend the Convent so that together with the GPA Chairman and the Chief Minister the person selected could be announced. During this telephone call I was not informed of the name of the person selected and indeed I arrived at the Convent on the day in question none the wiser as to who had been selected. I was not at any stage nor in any shape or form involved in the decision making processes which resulted in the selection of Mr McGrail as the next commissioner of police.
8. I do not recall having heard and/or receiving any complaints with respect to Mr McGrail at the time of the selection process or subsequent to his selection being announced.
9. With regard to the question posed as to whether I held meetings with any of the nine persons specified in Attias & Levy's letter dated the 10th August 2022 ("the Attias & Levy letter") in the presence of Mr McGrail and with regard to Mr McGrail's appointment as Commissioner of Police I would comment as follows to the best of my knowledge and recollection:-
- (a) I have no recollection of having attended any meeting (with or without Mr McGrail) with the Chief Minister with reference this matter and similarly I do not recall having any conversation with the Chief Minister with reference a Mr McGrail's selection or appointment;
 - (b) The same as in the case of the Chief Minister applies with reference Mr Llamas, Mr Rocca, Mr Pyle and Mr Britto respectively;
 - (c) I have no recollection of having attended any meeting with Mr Goncalves or having held any conversation with him pre-selection of Mr McGrail

although as stated above I did send him the report I prepared on the candidates for the post. Post selection of Mr McGrail I do recall Mr Goncalves mentioning to me at the Convent that Mr McGrail had come across to the Board as a very experienced officer and therefore they had put his name forward for ratification of appointment by the Chief Minister and His Excellency;

(d) I have no recollection of and would not have held any meetings (with or without Mr McGrail) with Messrs Mifsud, Tunbridge or Ullger with regard to either the report I was preparing on the candidates or about who should be selected for the post.

10. As stated above I had left the RGP some two years before Mr McGrail's resignation and therefore I cannot possibly make, for obvious reasons, any comment or provide any information as to the reasons (or lack thereof) for his resignation.

EVENTS OF FEBRUARY AND MARCH 2017

11. Turning then to the events in February and March 2017 to which I have been specifically referred to and asked to comment on, and dealing with them in reverse order:-

(a) RGP's investigation into an assault on a helicopter pilot and crew member in March 2017 – I have no recollection whatsoever about this incident and can only assume that it was never brought to my attention at the time and/or that it was a very minor event which did not necessitate any involvement on my part either at the time or subsequently. Having said this, if I am referred to any documentation and/or statement made at the time this may refresh my memory and allow me to comment further.

With reference the incident of the assault on a helicopter pilot and crew member I am unable to categorically confirm whether or not I would have held any meetings with any one or more of the nine persons specified in the Attias & Levy's letter in or without the presence of Mr McGrail since I have no recollection whatsoever of the incident referred to.

(b) The RGP's actions on the 8th February 2017 in obstructing an aircraft at Gibraltar airport and removing from it an MOD employee and on the 1st March 2017 arresting three senior Ministry of Defence personnel and seizing personnel equipment from HM Naval Base – both of these incidents are interconnected and relate to one continuing incident but two separate investigations, which investigations should never have reached the level they did had Ministry of Defence personnel and officials acted in a lawful, transparent and correct manner. I set out below the sequence of events that transpired as I recall them.

12. Days before the 8th February 2017, information was received by Mr McGrail to the effect that the MOD Naval Provost, together with Gibraltar Defence Police officers had conducted an illegal search and arrest at a residential unit in Europa Walks, Europa and that in the course of this search a computer suspected of containing sexual images of young girls had been seized, on the basis of an unlawfully obtained search warrant, and an MOD employee arrested and taken

to a secure location within MOD property. This information was reported by Mr McGrail to myself. I would at this stage make the point that the RGP had no prior earning or knowledge of the actions of the Naval Provost/Gibraltar Defence Police even though it is safe to assume that the military authorities must have suspected the individual concerned for some time; so, in essence there was a suspected paedophile within the community without the RGP's knowledge. Bearing in mind that New Mole House Police Station is the only legally recognised custody station in Gibraltar, and that in consequence any person arrested or legally detained must be taken to New Mole House Police Station for processing by the custody sergeant, I was concerned about the possible illegal search and unlawful detention of an individual but more so about the possibility that such an individual might have committed sexual offences in Gibraltar and that, if so, the computer illegally seized might contain evidence with regard to such offenses. In these circumstances, I instructed Mr McGrail to investigate the circumstances of the case and to keep me apprised of developments.

13. I believe that it was the following day when I received a further report from Mr McGrail to the effect that the MOD Naval Provost/Gibraltar Defence Police had de-arrested the MOD employee, who nevertheless continued to be detained within MOD property, and that they were refusing RGP officers' access to the individual concerned for the purposes of interview, and to the computer seized for the purposes of forensic examination. I found it unacceptable that the MOD agencies should be acting in the illegal manner that was being reported to me and that moreover they should be deliberately refusing the RGP access to a person who was suspected of committing a criminal offence(s) in Gibraltar and preventing access to a computer which potentially held the evidence of such offence(s).
14. I recall having had more than one telephone conversation with the Attorney General with regard to this incident as events unfolded since I looked to him for legal reassurance that the RGP was acting properly in accordance with the Laws of Gibraltar; which reassurance we received and I was left in no doubt that the MOD agencies had acted and were acting outside of their jurisdiction.
15. I recall having made it known to the MOD agencies that the RGP was prepared to investigate jointly with the MOD agencies any possible breach of the criminal laws in Gibraltar by the individual concerned, and to have the seized computer jointly examined by the pertinent experts, and that any evidence acquired in the course of the investigation relating to possible offences within MOD property and/or the UK would be handed over to them. Unfortunately, and to my great disappointment, this offer of joint co-operation was not accepted and eventually led to the unfortunate but preventable events of the 8th February and 1st March 2017 respectively.
16. Prior to the 8th February I made constant attempts to reach Commander British Forces Mike Walliker but he failed to answer and/or return any of my calls. At the time I believe that I was informed he was in the UK. I did however manage to speak to Mr Walliker's deputy. I informed him not only of the events that had occurred but also of the advice received from the Attorney General. I do not recall this official's name but I do recall that he told me that they were acting in accordance with the legal advice received from their legal team in the UK. I also recall that whilst he denied that any arrest or seizure of property had occurred.

he nevertheless did concede that an individual was detained within MOD property.

17. I then telephoned to His Excellency the Governor, Ed Davis, who also happened to be abroad at the time (Singapore), and informed him of the events that had transpired, of the obstructive course of conduct adopted by MOD authorities, of my inability to contact or have contact with Mr Walliker and the legal advice given to us by the Attorney General. I also informed His Excellency that I had spoken to the acting Commander of British Forces and that whilst I had offered to conduct a joint investigation, the person detained and the computer seized should be handed over to the RGP. I recall Mr Davis informing me that he would make enquires and revert back to me. His Excellency on arrival in the UK telephoned me and I updated him on events.
18. Whilst I was not present during the conversation in question, I was made aware that the Attorney General had personally advised the MOD that in his opinion the MOD agencies had and were acting outside of their jurisdiction with regard to the arrest and the seizure of property.
19. Prior to the 8th February I continued to try and speak to Mr Walliker but to no avail. Similarly, I attempted to contact the legal team at Naval Provost in the UK but also to no avail. Throughout this period Mr McGrail, who was the lead in the RGP investigation, was kept apprised by myself of my unsuccessful attempts to contact the MOD authorities and of my unsuccessful attempts to rationalise with the acting Commander of British Forces.
20. On the 8th February 2017, I was made aware by Mr McGrail of a report received by him to the effect that a military flight had been diverted to Gibraltar, and of the suspicion held by the investigating team that an attempt would be made by the MOD authorities to remove the detained individual and the computer from Gibraltar aboard this flight. On receiving this information, I once again attempted but failed to contact Mr Walliker. I then contacted the acting Commander of British Forces and sought assurances from him that the detained person and the computer seized would not be placed aboard this diverted military flight. The conversation held left me with serious doubts as to the truthfulness of the assertion made to me that the flight in question was purely an operational visit. These doubts increased materially when credible information was received to the effect that the aircraft, which had by then landed in Gibraltar, was indeed there to take the detained person and the computer seized out of Gibraltar.
21. This was clearly unacceptable to me and I felt that the RGP's legal and operational authority was being challenged and undermined by the MOD authorities who had wrongfully arrested a person using unauthorised agents, who had conducted an illegal search and seizure, and who were now in the process of removing an individual and his equipment from Gibraltar thereby potentially prejudicing the investigation into possible criminal offences in Gibraltar. In consequence of this, I instructed/Superintendent Ullger to deploy to the Station Commanders offices at the RAF station with orders to investigate whether the MOD intended to remove the person and equipment in question from Gibraltar and for other officers to deploy around the perimeter of the airfield.
22. Being aware from previous experience that the MOD had very strict guidelines on the carriage of goods and persons on a military aircraft with everything being

recorded on the flight manifest, I instructed/Superintendent Ullger to check the manifest for the flight in question. I subsequently received a report from Superintendent Ullger to the effect that the flight manifest did not record any passenger or additional equipment on board the flight and that the Station Commander insisted that the person and/or equipment concerned would not be on the flight.

23. I then received information to the effect that the person and computer in question had already been taken on board the aircraft. As a result of this information, I telephoned the acting Commander of British Forces who on being told of my information asserted that the information was untrue and that the person and computer in question were not on board the flight. I then informed the acting Commander of British Forces that he was obstructing the RGP officers in the execution of their duties and that I would take all necessary steps to prevent the person and equipment from leaving Gibraltar aboard the aircraft.
24. On terminating this call, I was informed that the aircraft in question was proceeding to its take off position. I then instructed the RGP officers deployed to the South Barrier to block the runway. Minutes later, by some miracle, I received a telephone call from Mr Walliker, who in the course of the conversation was adamant that the aircraft did not have onboard either the individual or computer in question. I informed Mr Walliker that I had credible information to the contrary and that therefore he needed to measure his words to the contrary as otherwise he could be held accountable for obstructing police in the execution of their duty. Mr Walliker then asked me to give him a few moments and that he would ring back. By this time the barriers at both ends of the runway were down and crowds of people had congregated to watch events unfold. Shortly after I received a telephone call from Mr Walliker who informed me that the aircraft was returning to its stand. Shortly after this I received information to the effect that the person and computer in question had been taken off the aircraft. This information, on the one hand, vindicated the actions that had been taken, and, on the other hand, proved that the acting Commander of British Forces, the Station Commander and Mr Walliker had all been untruthful with their assertions.
25. I wish to emphasise that police officers were deployed to the airport solely on my instructions and that the following senior officers were involved in the operation. Superintendent Ullger, and if I recall correctly, Chief Inspector Tunbridge were deployed to the airport. Mr McGrail handled the information being received with regard to the detained individual and seized computer; which information he relayed to me directly. Superintendent Mifsud and Chief Inspector Yeats were with me at New Mole Station.
26. In the days that followed the 8th February 2017, His Excellency the Governor and the Commander of British Forces returned to Gibraltar and shortly after this I attended a meeting with the both of them. In the course of this meeting, it was agreed by all that the investigation into whether possible sexual offences had been committed in Gibraltar would be carried out by the RGP with Naval Provost officers present, that the RGP would be given access to the seized computer for the purposes of forensic examination and that the individual would continue to remain in Gibraltar albeit within MOD property. In the course of this meeting, I expressed my disappointment at the senior MOD command and how certain

senior officers had blatantly lied to me and my officers thereby obstructing police in the execution of their duties.

27. The incident at the airport received extensive media coverage in Gibraltar and was the talk of the town for a while.
28. Apart from the meeting with His Excellency the Governor and the Commander of British Forces referred to above, I also had at least one meeting with His Excellency the Governor and AG) with reference making senior MOD officials accountable for the actions which led to the regrettable need to prevent a military flight from taking off. The outcome of these meeting(s) was that I instructed Mr McGrail, as the Head of Crime, to conduct a thorough investigation into the actions of the senior MOD officers and thereafter to report back to me with specific recommendations.
29. In the days that followed I received a report from Mr McGrail to the effect that as part of his investigation he required to execute search warrants at the offices of Commander British Forces and his deputy at the Naval Base, the Naval Provost offices and the RAF Station Commanders office for the purposes of securing material evidence in furtherance of his investigation. I sanctioned that course of action and as a result Mr McGrail prepared an operational plan to conduct the searches and deployed officers accordingly. I was not involved in either the preparation of the operational plan or in how the searches were conducted and I do not recall having received any complaints with regard to the conduct of any officer during the carrying out of the searches. I do recall having received later on a report to the effect that documents and digital equipment had been seized during the searches but I do not recall what was seized and/or where from.
30. Subsequent to these searches I received various reports from Mr McGrail with reference his investigation; the end result of which was that there was sufficient evidence to proceed against the acting Commander of British Forces, the Naval Provost and the RAF Station Commander for obstructing police officers in the execution of their duty. In consequence of these findings, I attended a meeting with the Attorney General, Mr Llamas, to discuss the case and the issues that arose therefrom. In the meeting it was agreed that the three senior military officers should be arrested for obstructing police; an event that occurred on the 1st March 2017.
31. At some point around this time, I received the report on the forensic analysis of the seized computer, which report stated that nothing had been found in it indicating that a crime had been committed in Gibraltar. As a result of this the computer was released to the MOD authorities and our investigation ended. As I understand it the individual detained was subsequently flown back to the UK together with the computer.
32. In the days following the arrest of the three senior military officers the RGP received apologies from all three men who claimed that they had acted on UK legal advice. Even though the claim that all three men had acted on UK legal advice did not exonerate them, the decision was taken to give all three men formal warnings and then to release them from arrest.

PERSONAL
DATA

33. I cannot recall whether it was before or after the three men had been released from arrest, but a meeting was hosted by the Attorney General, Mr Llamas, at which I attended with Superintendent Mifsud. Also in attendance was the UK Naval Provost Marshall accompanied by a senior Military of Defence Police officer whose name I do not recall. Also present were members of the Attorney General's office. At this meeting the UK officers gave assurances that the constitutional authority of Gibraltar and its agencies would not be challenged again and that with lessons having been learnt on both sides it was hoped that the excellent relationship that had always existed between the MOD and Gibraltar and its agencies would continue. As far as I recall no further meetings were held with regard to this whole affair after this.
34. With reference the airport incident and the question of whether I held meetings with any of the nine specified individuals set out in Attias & Levy's letter I would comment as follows to the best of my knowledge and belief:-
- (i) I have no recollection of having attended a meeting with the Chief Minister in the company of Mr McGrail although I do recall having spoken to the Chief Minister at some stage in order to inform him of the circumstances surrounding the event;
 - (ii) I do recall having held meetings with the Attorney General with regard to this incident but to the best of my recollection Mr McGrail was not present at these meetings;
 - (iii) As Mr Rocca was not in post during my time as Commissioner I cannot have held, and I have no recollection of having held, a meeting with him, let alone in the presence of Mr McGrail;
 - (iv) I have no recollection of having spoken to any of Mr Joseph Britto, John Goncalves or Mr Pyle with regard to the airport incident and there would not have been a need for me to do so; and
 - (v) As stated above, and to the extent referred to above, the senior RGP officers involved in the airport incident were Superintendents Mifsud, Ullger and McGrail and therefore at one time or another I would have held meetings with each of them alone or jointly with the others.
35. I confirm my availability should the Inquiry require clarification or further information with the above.

Sworn by the above-named
Edward L Yome this 20th day of
September 2022

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Commissioner for Oaths

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