

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE
(‘THE INQUIRY’)

SECOND STATEMENT OF JOHN CHRISTOPHER PEREZ MBE

I, JOHN CHRISTOPHER PEREZ MBE of [REDACTED]

[REDACTED] say as follows : —

1 I make this witness statement in response to the statements and other documents served by and behalf of other Core Participants to the Inquiry. As in my Affidavit of 24 January 2023 (my ‘First Affidavit’) I will refer to me, Thomas Cornelio and Caine Sanchez as ‘the Defendants’. As before, I intend to circulate this statement in draft to my co-Defendants, so that they can if they wish adopt it or parts of it and not burden the Inquiry with repetitive statements.

2 In my First Affidavit I set out my belief (which I know is shared with the other Defendants) that the RGP were improperly influenced by Bland Ltd, and in particular by James Gaggero, in their investigation into and prosecution of we Defendants. I wish to draw the Inquiry’s attention to the following information within the evidence now before it. In doing so I appreciate that the incidents to which I will refer are, in the main, not close in time to the retirement of former Commissioner Ian McGrail. However, they may shed led light on the motivations for bringing and for discontinuing the prosecution, motivations that may be related to the reasons why the Chief Minister and the Governor stated that they had lost confidence in Mr McGrail.

The relationship between the RGP and James Gaggero / Bland

3 With his second witness statement dated 13 June 2023, former Superintendent Paul Richardson has exhibited his ‘Operation Delhi Day Book’. In the form disclosed to the Defendants, this is a 168 PDF with redactions. Most pages are paginated by hand, usually in red ink in the top outside corner; however, some pages are unpaginated and there are some insertions of other documents such that the manuscript pagination does not match the PDF pagination. References to page numbers below are to the manuscript pagination, not the PDF pagination.

4 I believe the Op Delhi Day Book will be of value to the Inquiry principally in demonstrating the closeness of the relationship between the RGP and Mr McGrail,

on the one hand, and James Gaggero on Bland, on the other. Whilst I accept that it is normal and proper for police officers to have contact with complainants in criminal cases, the Op Delhi Day Book records discussions that, from my perspective at least, go beyond what is normal or proper.

5 Of particular note are the discussions between the RGP and Bland in which they co-ordinate the strategy to be taken towards me and the other Defendants. The records of these begin on 08 January 2019 (pp15–17), where Mr McGrail seeks an assurance that the criminal complaint will not be withdrawn in favour of civil action, and later suggests a meeting with Sir Peter Caruana QC (as he then was) to ‘clear the legal approach’. This leads to a meeting on 15 January 2019 (p27) with Sir Peter Caruana and Patrick Caruana where it appears there is a discussion about who will obtain what evidence. Then, during a phone call on 08 May 2019, Sir Peter Caruana and Mr Richardson discuss the potential for ‘conflict’ with the ‘civil side’.

6 Nowhere in Mr Richardson’s Op Delhi Day Book is it apparent that the RGP has afforded proper recognition to the distinction between Bland’s interests and the public interest. These appear to have been elided, with the RGP and Bland fully co-ordinating tactics and strategy in pursuit of what they perceived to be a common goal. Rather than testing the strength of James Gaggero’s allegations, the senior RGP officers leading the investigation brought him in to Mr McGrail’s office to meet the full team — see Mr Richardson’s third statement dated 29 September 2023 at paragraphs 50–52. There is also no record of any consideration been given to reasonable lines of inquiry that might uncover evidence that would cast doubt on James Gaggero’s assertions, nor of any analysis of the weight that could be placed on the reports that he commissioned. Rather, the truth of his allegations appears to have been largely assumed, with the RGP’s role conceived as one that should be uncritically supportive of Bland’s commercial interests.

7 It also appears that Bland’s legal team continued to contribute at the stage of the drafting of witness statements: in a call between James Gaggero and Mr Richardson on 25 April 2019 (p55) it appears that ‘Patrick’ (who I assume to be Patrick Caruana) will ‘liaise direct’ in respect of the statements of employees ‘Krishnan’ (which must be Krishnan Benyunes, a Bland software developer) and ‘Jonathan’ (who I assume to be Jonathan Galliano, Bland’s Head of IT). The following day, draft statements are discussed in a conference call with Patrick Caruana (p63).

8 Assistance and information also flowed in the reverse direction, from the RGP to Bland. On 07 May 2020 (p138) — over a year after initial complaint — there is a conference call between Mr McGrail, Mr Richardson and James Gaggero. A letter sent to the RGP by my then legal representative, Robert Fischel KC, is discussed and its key points outlined. Mr McGrail tells James Gaggero that the RGP has not been “swayed” by this letter. Reference is made to a “grey man” who is apparently “let down and betrayed”. And Mr McGrail informs James Gaggero that there are “v[ery] sensitive exec actions pending” which cannot be discussed by telephone. Given that this meeting took place only a few days before the day that had been identified for execution of the search warrants, I believe that this can only be a reference to these plans.

9 Advice from Bland’s legal team appears to have been instrumental beyond the issue of the drafting of witness statements. On 13 November 2019, Mr Richardson received a call from James Gaggero (p108, though there is no page number visible). They discuss the crucial issue of the ownership of the NSCIS system. Mr Gaggero reports that Sir Peter Caruana had “assessed [the] situation and given [his] verdict that it was clear cut” in favour of ownership by Bland.

10 When the representation of Core Participants in the Inquiry was first announced, I was surprised to learn that Sir Peter Caruana KC was representing the Government Parties, including the Chief Minister, given that he had previously been engaged by the complainant in the investigation and prosecution at the heart of Issue 5. The disclosure that has been provided makes this state of affairs even more surprising, for two reasons.

11 First, the disclosure gives further particulars of Sir Peter Caruana’s role whilst engaged by Bland and/or James Gaggero personally. This appears to have included positively advocating for charges to be brought, giving advice that would be relevant to that decision, and being present at a number of meetings with Mr McGrail and Mr Richardson.

12 Secondly, the disclosure reveals that Sir Peter Caruana and his client the Chief Minister have expressed very different views on the merits of the Operation Delhi prosecution. According to page 3 of the notes made by Mr McGrail exhibited as IM/3 to his first affidavit of 20 June 2022, on 12 May 2020 the Chief Minister stated (a) that he believed that it was HMGoG that owned the NSCIS suite of software, (b) that the allegations then being made did not meet the threshold for criminal liability, and (c) that James Gaggero was (mis)using Mr McGrail and the

RGP to further his business interests. The contrast with the position that Sir Peter Caruana was advancing is stark. Whatever position the Government Parties ultimately take on this issue in the Inquiry, I cannot see how it will not be in conflict with either the expressed views of the Chief Minister, or those of his advocate. I also struggle to see how Sir Peter Caruana will navigate the pitfalls of questioning witnesses, including two Core Participants, about meetings that he himself attended.

13 The Op Delhi Day Book also casts doubt on Mr McGrail's assertion, in his first affidavit dated 20 June 2022 at paragraph 38, that he had "initially received Mr Gaggero's complaint but then passed the matter on to a team headed by Superintendent Richardson". This assertion is effectively repeated by James Gaggero from his perspective in his affidavit of 06 October 2022 from paragraph 82, where he describes his contact with Mr McGrail as "very limited". But this is not the picture painted by the entries in Mr Richardson's Op Delhi Day Book, from which it is plain that Mr McGrail maintained his involvement throughout.

14 As already noted, Mr McGrail was the one who suggested a meeting between the RGP and Sir Peter Caruana KC to "clear the legal approach", and who later took it upon himself to discuss representations made by my then legal representative with James Gaggero. It also appears that on 10 May 2019, Mr McGrail had left a message with James Gaggero asking him to call — see p84. This call did not in the event take place, but since 10 May 2019 was also the day of my and my co-Defendants' arrests I think it is safe to assume that the intention was to communicate something about the RGP action planned against us. From my perspective this is demonstrative both of the unusually close relationship between the RGP and Bland, and of Mr McGrail's persistent involvement in operational matters.

15 I should add that these entries in Mr Richardson's Op Delhi Day Book are consistent with other parts of the evidence that has been served. It is clear from the affidavit of Albert Mena dated 15 September 2022 that Mr McGrail took a leading role in trying to persuade HMGoG to interdict my co-Defendant Caine Sanchez, including by WhatsApp — see paragraphs 17 to 28. The same can be seen in Mr McGrail's letter of 08 April 2020, considered further below, and from Mr Wyan's log, in particular entry #423 relating to a meeting on 30 April 2020. Whilst I appreciate that the RGP would be entitled to inform HMGoG of any credible evidence it might receive of misconduct by an official, this does not appear

to have been Mr McGrail's approach, which (if Mr Wyan's note is accurate) was to present Mr Sanchez's culpability as a matter of established fact.

Striving towards a prosecution

16 With his second witness statement of 27 July 2023, Superintendent Mark Wyan exhibited his electronic investigation log for the Op Delhi investigation, as his exhibit MW/2. Each log entry has an index number, and the references in the form #xx below are to these index numbers.

17 Mr Wyan's log makes clear the extent to which the RGP, encouraged by James Gaggero, was prepared to tailor the way in which the allegations against we Defendants were framed in order to maintain the Operation Delhi investigation and prosecution. The impression is that a decision had been made that we must be charged with something, after which the RGP began searching around for a charge that might stick against us, but not adversely impact Bland's "commercial interests" — see #528.

18 This is most apparent on the issue of the ownership of NSCIS. The RGP plainly realised that a prosecution for an offence of conspiracy to defraud would fail unless the ownership of NSCIS was established, since this was what provided the vital ingredient of 'proprietary right or interest'. Yet (as Mr Wyan's log reveals) when the case presented to the RGP by James Gaggero of Bland's ownership began to fracture, the RGP did not consider with any seriousness the possibility that we Defendants might be innocent of this (or any) offence, but instead set about searching for other ways to frame a case on conspiracy to defraud.

19 This is first apparent in the log in entry #210, where Mr Wyan records a meeting with Mr Richardson, the SIO, on 15 November 2019. Mr Richardson's Delhi Day Book at p109 records that another RGP officer, Paul Clarke, was also present. At this meeting, Mr Wyan proposed that the RGP should consider charging a conspiracy to deprive Bland of the "maintenance contract" rather than the NSCIS platform; in Mr Richardson's Day Book this is described as being put forward as a "fall back position". I should note that this was not a proposal made in the context of a document entitled 'maintenance contract' having been recently discovered: as has been made abundantly clear by the Chief Minister, there was no written agreement between Bland and HMGoG for the maintenance of NSCIS, and no contract beyond that which is implicit when work is done and paid for in monthly arrears.

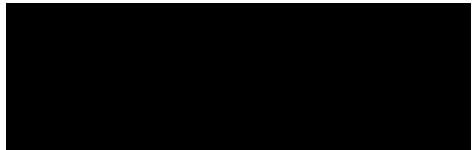
20 This apparent desire to make the facts fit the charge, rather than the other way round, is also evident in the RGP's attempts to persuade HMGoG to fill the gap. This is most apparent in Mr Wyan's exhibit MW/81, a letter of 08 April 2020 from Mr McGrail to Albert Mena, the Financial Secretary. This letter is striking for the pressure which it exerts on a senior member of HMGoG to answer police questions. But what is perhaps more extraordinary, from my perspective at least, is what it says will happen if he does not answer those questions as desired, namely, that the RGP would rely (presumably, at trial) on evidence from Bland in the knowledge that this evidence may be disputed by HMGoG. The option of not prosecuting me and my fellow Defendants does not seem to have crossed Mr McGrail's mind.

Email of thanks from James Gaggero to Ian McGrail

21 I note the email of 10 June 2020 from James to Gaggero to Mr McGrail, expressing his regret concerning Mr McGrail's retirement — p69 of exhibit JPG/1 to James Gaggero's first affidavit of 06 October 2022. There is no mischief in the sending of an email of support or commiseration to an acquaintance who is going through a difficult time. But I was nonetheless surprised to see the fervour of the thanks that James Gaggero felt compelled to express, and by Mr McGrail's response suggesting a face-to-face meeting. I think this demonstrates of itself the degree to which Mr McGrail involved himself in Operation Delhi, an involvement he seems at pains to minimise in his presentation to this Inquiry.

Statement of Truth

I believe that the facts stated in this witness statement are true.



JOHN CHRISTOPHER PEREZ

02/01/2024
DATE