

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

EIGHTH AFFIDAVIT OF IAN McGRAIL

I, **IAN McGRAIL** of 6 Electra Flats, Gibraltar **MAKE OATH AND SAY** as follows:

1. I make this affidavit in response to Counsel to the Inquiry's references in paragraphs 5, 10 and 11 of their Closing Written Submissions of the 19th June 2024 to matters which require certain clarifications from me as well as from others.
2. The contents hereof are true to the best of my knowledge information and belief and where based on information received from others, notably my lawyers, I specifically refer to my sources.
3. I have also had the opportunity of reading Mr Cathal Yeats' 4th Witness Statement of the 19th June 2024 and refer herein to the accompanying exhibits.
4. The matters of concern to the Inquiry, as I understand them, are the whereabouts of my official desktop computer and laptop, my day-books and the destruction of spare copies of official documents which were in my possession up until March 2023.

Desktop Computer and Laptop

5. During his oral evidence, on the 30th April 2024, Commissioner Richard Ullger stated that he was unable to identify the whereabouts of my official RGP desktop computer

and laptop. I see from Mr. Yeats' statement of yesterday's date that the laptop has been found but not the desktop computer; there is a suggestion in Mr. Yeats' email to Mr. Wyan of the 28th April 2024 at 7:08pm that it is possible that the Government's Information Technology and Logistics Department ("ITLD") may have taken it (see Exhibit **CY/WS4/14**). I can confirm that I did not keep the desktop computer or the laptop. I left both the desktop computer and the laptop in the Commissioner's office at New Mole House Police Station before my departure from the police on the 9th June 2020.

The day-books

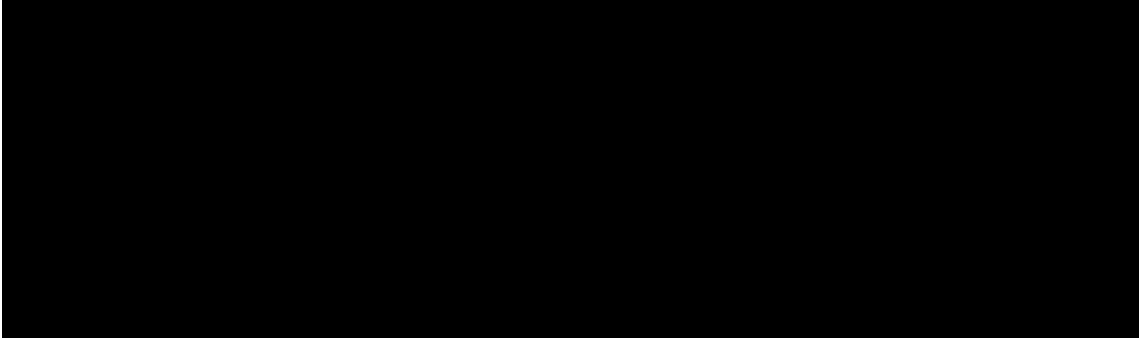
6. I am not able to provide any more assistance as to the whereabouts of my day-books. By way of background, I can however add that when I was arrested on the 13th April 2023 for an alleged sexual assault, Mr Charles Gomez, who was representing me in respect of the criminal matter, and represents me in the Inquiry, was present during my interview. Mr Gomez asked the Senior Investigating Officer, Mr. John McVea, to check my diaries and the day-book for 2018 which was the year in which the complainant alleged that I had assaulted her.
7. This information was crucial to me at the time because the 2018 day-book would have assisted me in being able to establish what I was doing and whether I was at work or even in Gibraltar on various days within the range of when the alleged offence could have taken place.
8. To say that I was desperate for this day-book to be found is an understatement, because nothing in the day-book could have incriminated me but on the other hand could have served to exculpate me if it was found that I was not at work on the day on which the assault was alleged to have taken place. In fact, no such date was ever provided by the complainant but for weeks after my arrest the tracing of the 2018 day-book was of major concern to me.
9. I note the confirmation of the importance of the 2018 day-book to me is referred to in the note sent to Assistant Commissioner Yeats by Mr. McVea on the 3rd June 2024 which can be found at **CY/WS4/18**.

10. As it was, I had to go through the trial without information in the day-book which might have assisted my defence.
11. That the RGP were unable to find the day-books leading up to my criminal trial in June last year and have still been unable to find them is not as a result of any actions of mine. When I left my role as Commissioner of Police, I left all my day-books and other materials at New Mole House, as was required. Since then, I believe that the RGP has been able to locate the notes I made on Op Delhi. Moreover, it is my understanding that the RGP have indeed been able to locate scanned copies of the handwritten notes I made in my day-book in respect of Op Delhi and which I submitted to the Op Delhi investigating team at the time of providing my statement for the prosecution (see 3rd Affidavit of Mr Cathal Yeats dated 24th April 2024 and **CY/WS4/14**). The said day-book was not specific to Op Delhi but contained three relevant entries dated (i) 29th September 2018, (ii) 12th October 2018 and (iii) 22nd October 2018 as referred to by Mr Yeats. These notes have to be read in conjunction with the statement I provided the Op Delhi team dated 19th November 2019, which can be found in **Exhibit MW/60** - Statements folder – bundle 7 – page 270.

Destruction of Documents

12. I did not destroy any documents other than under the direction and request of the RGP.
13. As the Inquiry is aware, when I left my role as Commissioner of Police, I copied onto an external hard drive documentation in the form of emails and intranet files which in the main included reports that I had generated during my time in service. I also retained some hard copy documents appertaining to Op Delhi, these were the letters received from Hassans following the intervention on James Levy and which threatened litigation against me and possibly a copy of the 'section 15' report I had submitted to Mr Picardo.
14. As I explained to the RGP at the time and they appear to have accepted, I kept these copies because of my fear that they could be deleted either inadvertently, [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] The disappearance of the

desktop computer, and the temporary disappearance of the laptop which has only recently been located, confirm me in my view at the time that I was right to be fearful.

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15. On the 15th November 2022, I informed the RGP of the documents I had in my possession and thereafter I corresponded with Inspector Riley, who was fully aware of and raised no objection to me deleting the copies of files which I had retained once the same had been disclosed to the Inquiry. The process, which the RGP will be able to confirm, involved ensuring that the RGP, and the Inquiry, had a complete suite of documents before I deleted the copies which I had. I handed the hard drive over to Inspector Riley on 16th November 2022. Thereafter:
- a. On the 18th November 2022, in response to Inspector Riley's questions, I confirmed that I had retained a single copy of the documents which were listed in the disclosure lists (for providing to the Inquiry), that I had not retained a copy of any other documents from the hard drive, and that I would now be destroying the documents.
 - b. Inspector Riley asked in a response of the 22nd December 2022 whether these documents had since been destroyed and "*if not when you propose to have them destroyed*" (p. 100 of **Exhibit CY4**).
 - c. I replied on the 23rd December 2022 that the data had not yet been disclosed to the Inquiry because of the Attias & Levy data breach and therefore the data remained with my solicitors and that I would advise Inspector Riley when it was released to the Inquiry (p. 99).
 - d. On the 2nd February 2023 Inspector Riley asked whether I had yet deleted / destroyed copies of the data which I had retained (p.97 of **Exhibit CY4**).

e. On the 3rd March 2023 I confirmed to Inspector Riley that having disclosed the relevant information to the Inquiry, I had deleted all copies of the same which I held and did not retain them any longer. (p. 95 of **Exhibit CY4**).

16. I did not delete any of the documents which were on the hard drive, copied from my email and intranet accounts, and I handed the hard drive back to the RGP.

Missing Media

17. In paragraph 10 of Counsel to the Inquiry's Written Closing Submissions, I am asked whether I can provide missing media or attachments to various WhatsApp messages in all of the chat logs which I disclosed to the Inquiry. I had attempted to do this at the time when I exported all the relevant chat logs but was not able to do so. However, I can say that the RGP took control of and examined the device in question, an iPhone 11, which they kept for a period of some 7 months and should be able to provide the data. Since the police returned the iPhone in question, I have not been able to access that WhatsApp account. Needless to say, I hereby give authority to the RGP to provide the relevant media corresponding to those chat logs which I disclosed to the Inquiry.

SWORN by the abovenamed Ian McGrail

this 20th day of June 2024

at Unit 1.02 15th Floor
World Trade Center, 6 Bayside
Road, Gibraltar

Before me

A Commissioner for Oaths
James Gerard Oton
Commissioner For Oaths

Date 20/6/24 **Fee pd.**

Presented by Charles Gomez & Co, of 5 Secretary's Lane, Gibraltar, solicitors for Ian McGrail