

## **Inquiry into the retirement of the former Commissioner of Police**

### **A ruling on the representations made by the Hassans witnesses**

1. Neither Hassans International Law Firm Limited ('Hassans'), nor Mr James Levy KC nor Mr Lewis Baglietto KC applied to the Inquiry to be Core Participants. On 21 June 2024, long past the time at which Core Participants had to file their written closing submissions, and only one clear working day before the Inquiry began to hear their closing oral submissions on 25 June, Mr Danny Friedman KC, on behalf of Mr Levy and Mr Baglietto ('the Hassans witnesses', as he called them) filed detailed 'Submissions' on their behalf.
2. On 8 October, Mr Friedland filed 'Supplementary Observations' on their behalf.
3. I must now consider the status of these 'representations', as I prefer to call them, so as to distinguish them from the submissions made by the Core Participants, and whether I should take them into account and whether they should be uploaded onto the Inquiry website.
4. Section 17(3) of the Inquiries Act 2024 provides that: "*In making any decision as to the procedure or conduct of an inquiry, the chairman must act with fairness and with regard also to the need to avoid any unnecessary cost (whether to public funds or to witnesses or others).*"
5. Many of the Core Participants were outraged at what they saw as an attempt to make very late representations, without incurring any of the consequent duties and obligations attaching to Core Participants, and urged me to disregard them altogether.
6. Paragraph 3 of the Inquiry's Core Participant Policy (which remains in force) provides that Core Participants enjoy "*participatory rights in the Inquiry*" and will "*have the opportunity to make opening and closing statements at the main Inquiry hearing*", but it does not specifically exclude others from doing so. Indeed, paragraph 4 provides that "*it is not necessary to be designated as a Core Participant in order to provide information or evidence to the Inquiry...*".
7. In response to these representations, the Inquiry has received further submissions, as follows, from:

- a. Cruz Law, on behalf of the RGP, dated 24 June 2024, which were reiterated on 12 November 2024.
  - b. Charles Gomez & Co (as agents for Ms Mariel Irvine), on behalf of Mr Richardson, dated 9 July 2024, and further submissions dated 26 November 2024.
  - c. Mr Wagner on behalf of Mr McGrail, dated 15 July 2024, and further submissions, dated 26 November 2024.
  - d. The Government Parties dated 26 November 2024.
8. Mr Levy was an important witness in the Inquiry; he was the subject of much criticism. Of course, he defended himself in his answers from the witness box, but I think that fairness to him requires that he be allowed to engage lawyers to put forward his defence by making representations on his behalf. Furthermore, he has been publicly criticised, and I think that he is entitled to have his defence made public. The same points apply both to Mr Baglietto and, indeed, to Hassans.
9. Moreover, the fact is that I have read and considered these representations. It is my duty to find the facts; it seems to me that I could not sensibly – or indeed properly – ignore what has been written on their behalf. If I did ignore these representations as I wrote the first draft of my report, I would then only have to re-write it to take them into account after the Maxwellisation process, which would cause unnecessary and avoidable delay and expense; I consider that this makes no sense at all. Furthermore, the Maxwellisation process is necessarily private, and – as I have already pointed out – I think that the ‘Hassans witnesses’ are entitled to have their representations and observations on their behalf made publicly.
10. There are, however, competing arguments, to which I now turn. A good deal of the material filed on behalf of the Hassans witnesses is directed towards what they claim to be defects and inadequacies in the RGP investigation of Operation Delhi. To some limited extent, this is relevant to the Inquiry process, because the course of the RGP’s investigation, and the evidence against Mr Levy on which they relied, including the NDM Assessment, the Charging Report and the Information, will all be published on the Inquiry website (largely unredacted) under the Documents Policy. Hassans now seek to put forward their defence. I consider that in many respects, their representations go far beyond what I am empowered to consider in accordance with my Terms of

Reference; many of the points they make would be appropriate only if I was conducting a judicial review of the search warrant. Indeed, at paragraph 44, Mr Friedland invites me to make findings that the RGP's application and Magistrate's order were deeply flawed, and the outcome (being the grant of the search warrant) was unlawful.

11. Mr Santos, Counsel to the Inquiry, having discussed the matter with me, made clear when opening the Main Inquiry Hearing, that he was not inviting me to rule upon or arrive at a definitive conclusion on the lawfulness on the warrants. He rightly correctly observed, that "*I do not understand it to be your intention to arrive at such a definitive determination*" [T/1/191.7].
12. I have repeatedly observed, throughout the hearings, and I repeat yet again, that I am not conducting a judicial review; I have no power to rule upon the lawfulness of the search warrant and I will not do so. I therefore decline Mr Friedland's invitation in paragraph 44.
13. I have considered whether I could seek to edit the representations by redacting material which I consider to be irrelevant to the Inquiry's Terms of Reference, but this would require another round of submissions, and another Ruling to resolve the conflicting views. I doubt whether the time and cost involved would bring a commensurate benefit. I also have in mind that much of the material already uploaded to the website contains a good deal that is irrelevant.
14. For the reasons canvassed above (in paragraphs 8 and 9), I have decided that in principle, all the representations and observations made on behalf of the Hassans witnesses, together with the responses of the Core Participants, should be made public and uploaded on the Inquiry website.
15. However, I make clear that the mere fact that anything is uploaded to the website does not mean that I accept it as being relevant, let alone that I accept any fact asserted as being true or that I accept any argument being presented as being persuasive. I will make my findings in my report, I do not do so by authorising anything being uploaded to the website.

Sir Peter Openshaw DL

18 December 2024.