

<p>1 2 (Thursday, 10 April 2025) 3 (10.00) 4 THE CHAIRMAN: Yes? 5 MR SANTOS: Good morning, sir. Our next 6 witness is ex-Commissioner, Ian McGrail. 7 THE CHAIRMAN: Yes. 8 IAN McGRAIL 9 Questioned by MR SANTOS 10 Q. Good morning, Mr McGrail. 11 <b>A. Good morning.</b> 12 Q. First of all, like with the other witnesses I 13 would like to take you to the statements that 14 you have filed since the last hearing. Can I 15 ask that you go through each one and for 16 each one confirm that it is your evidence, that 17 it is your signature on the final page and that 18 the contents of those statements are true to 19 the best of your knowledge, information and 20 belief? 21 <b>A. That is a "yes" to all your questions.</b> 22 <b>They are; I confirm that.</b> 23 Q. Thank you. Mr McGrail, my first 24 question is what methods of communication 25 did you use to communicate with other senior</p> <p style="text-align: center;">Page 1</p>	<p>1 Q. And at the time when you received this 2 request you had access to your personal 3 mobile phone and your WhatsApp messages? 4 <b>A. I did, yes.</b> 5 Q. Did you go through your texts and 6 WhatsApps in responding to the request for 7 disclosure? 8 <b>A. Not in response to the disclosure. What I</b> 9 <b>accessed, my phones and other data forwards</b> 10 <b>as I was developing my evidence in terms of</b> 11 <b>structuring my responses and so forth. So, it</b> 12 <b>wasn't specifically in relation to disclosure.</b> 13 <b>And so the data that I was relating to in my</b> 14 <b>evidence was the one that I disclosed.</b> 15 Q. But were you aware that you had to 16 disclose any documents that were unhelpful, 17 or that you may have deemed unhelpful or 18 provided that they were relevant? 19 <b>A. I am aware, of course I am aware, but in</b> 20 <b>fact the ones that are in question did not</b> 21 <b>feature in my mind at the time because my</b> 22 <b>focus was on preparing the evidence but I am</b> 23 <b>-- I agree with you.</b> 24 Q. In fact you filed, as you say, your first 25 witness statement on 20 June and it exhibited</p> <p style="text-align: center;">Page 3</p>
<p>1 RGP officers? 2 <b>A. In no particular order, I used a landline,</b> 3 <b>telephone landlines; emails; messaging;</b> 4 <b>mobile phone calls, but primarily it was face</b> 5 <b>to face, person to person.</b> 6 Q. Can I take you, please, to the inquiry's 7 original letter to you seeking evidence and 8 disclosure on 4 April 2022? I think that will 9 come up on screen. That was dated 4 April 10 2022. At the bottom of the second page is 11 the request for evidence and disclosure, and 12 it reads as follows: "We therefore request 13 you to cooperate with the inquiry by 14 preparing and producing a statement under 15 oath addressing the subject matter of the 16 inquiry", and then (b) "Any documents 17 including but not limited to electronic 18 documents, such as emails, Word documents, 19 pdfs and SMSs, WhatsApp and other instant 20 messages in your possession or control 21 relevant to the subject matter of the inquiry", 22 and then we make a specific request. Did 23 you understand that request to include any 24 relevant WhatsApp messages? 25 <b>A. I did.</b></p> <p style="text-align: center;">Page 2</p>	<p>1 messages with, for example, the Interim 2 Governor, Mr Pyle, the Chief Secretary, 3 Darren Grech, the Chief Minister, the 4 Attorney General, the Minister for Justice, 5 Samantha Sacramento, the Chairman of the 6 GPA, Dr Britto and the Maritime Incident 7 WhatsApp Group. Do you recall that? 8 <b>A. I do.</b> 9 Q. And you then filed a further witness 10 statement, your third witness statement on 4 11 October 2022, so some four months later, 12 which exhibited messages with other 13 individuals, this time including the former 14 governor, Ed Davis, the former Acting 15 Deputy Governor, Phil Culligan, and the 16 DPP? 17 <b>A. I do remember that, again because they</b> 18 <b>featured as part of the narrative in my</b> 19 <b>evidence.</b> 20 Q. Your first witness statement stated as 21 follows at paragraph 29. I do not think we 22 have to go to it. A9 is a reference but I am 23 just going to read one sentence, which you 24 will recall: "I was at a Covid 19 meeting at 25 the Bunker at about 1220 hrs when I received</p> <p style="text-align: center;">Page 4</p>

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1 a text from Superintendent Richardson, who  
 2 was about to execute the warrants", and yet it  
 3 is correct to say, is it not, that you did not  
 4 disclose or provide any messages between  
 5 you and Mr Richardson together with that  
 6 statement?  
 7 **A. At the time of writing that statement the**  
 8 **focus was not the message from Mr**  
 9 **Richardson to me but rather my**  
 10 **communications with the officials in**  
 11 **question, namely the Chief Minister, the**  
 12 **Minister for Justice and the Attorney**  
 13 **General, so it was not a relevant feature, the**  
 14 **fact that it was a fact that the police were**  
 15 **attempting to execute a warrant at Hassans.**  
 16 **That was not for me a contentious issue; it**  
 17 **was a given, but the subsequent embroiling**  
 18 **resulting from that action was, so I saw the**  
 19 **relevance of the messages with the officials**  
 20 **as opposed to a factual thing that had just led**  
 21 **me to contact the officials, if that makes any**  
 22 **sense?**  
 23 Q. Well, in fairness to you, you refer to this.  
 24 You explain this in your eighth statement and  
 25 I will just read that out. At paragraphs 12

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1 and 13 -- sorry, it is E259. It should appear  
 2 on the screen. Let me know if you have  
 3 trouble with the size.  
 4 **A. No, no, it's okay.**  
 5 Q. I am sure that Mr Vea[?] can make it a bit  
 6 larger. So, you say: "At the time of  
 7 preparing my evidence for the inquiry, my  
 8 focus was set on covering all the aspects  
 9 required as per the list of issues. I did not  
 10 look into or rely on any exchanges of  
 11 messages between Mr Richardson and/or Mr  
 12 Ullger and myself because as my evidence  
 13 evolved there seemed to me to be no  
 14 relevance or requirement for me to do so.  
 15 Evidently the relevance of these messages  
 16 became apparent during the oral hearings and  
 17 I fully appreciate STI's interest as to why I  
 18 did not disclose these exchanges. I did not  
 19 export the chat logs from either of them. SIO  
 20 McVea's forensic examination will confirm  
 21 this. The fact that I did not export the chat  
 22 logs of my exchanges with Mr Richardson  
 23 and Mr Ullger is because they did not feature  
 24 in my mind as relevant at the time. This was  
 25 an inadvertent omission on my part for which

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1 I apologise." And 14 says: "However, I am  
 2 glad that the said chat logs have been  
 3 extracted by SIO McVea and I understand  
 4 have been made available to the inquiry. If  
 5 they have not, I allow the RGP permission to  
 6 disclose these". So, that explanation, does  
 7 that apply to the message of 12 May in that  
 8 you were not seeking to place your evidence  
 9 -- there seemed to you to be no relevance or  
 10 requirement for you to provide that message  
 11 at that stage?  
 12 **A. Absolutely.**  
 13 Q. But it is fair to say you did rely on that  
 14 message albeit not as a central part of your  
 15 evidence, but it was part of the narrative?  
 16 **A. It was more -- not the actual message; it**  
 17 **was more a sequence of events. Had it been**  
 18 **a phone call it would have said, "I received a**  
 19 **phone call that they were at Hassans", but the**  
 20 **importance for me was the sequence of**  
 21 **events rather than the content, because the**  
 22 **content was irrefutable. They were**  
 23 **attempting to -- they were just notifying me**  
 24 **that they were at the door.**  
 25 Q. When you were first giving disclosure in

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1 2022, did you review your messages with Mr  
 2 Richardson and decide they were irrelevant,  
 3 or did you not look at the messages at all?  
 4 **A. As I said, I did not rely on them because**  
 5 **they did not feature as my evidence went**  
 6 **along. I wish I had. I wish --**  
 7 Q. Sorry, my question is not whether you  
 8 relied on them but did you look at them at  
 9 all?  
 10 **A. No, no, because if I had looked at them, I**  
 11 **would have then realised that I needed to**  
 12 **export them, and that's the relevance of them**  
 13 **not being exported. I've exported everything**  
 14 **from the phone which, believe me, that -- it**  
 15 **took me a task because I'm not technical at**  
 16 **all, but I had to understand how to do that**  
 17 **process and whether the attachments could**  
 18 **be included or not, etc. That was a major**  
 19 **learning curve for me and believe me that**  
 20 **had I relied on them, they would have been**  
 21 **exported and that would have made the**  
 22 **situation far worse for me if I had exported**  
 23 **them and still not disclosed them. The fact**  
 24 **that I did not export them is what I am trying**  
 25 **to show, is the fact that they did not feature in**

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<p>1 <b>my mind because of how my evidence was</b>  2 <b>evolving. And in fact they have never been</b>  3 <b>exported by me.</b>  4 Q. We will come on to that in due course.  5 Why did you not consider looking at them,  6 given that he was the senior investigating  7 officer in the criminal prosecution which on  8 your case was the catalyst for your retirement  9 and which you have asserted that the Chief  10 Minister interfered with?  11 <b>A. My approach to my evidence was as</b>  12 <b>follows. On the one side, on the one part I</b>  13 <b>was responding to what I believe and my</b>  14 <b>team believed were fig leaves by the</b>  15 <b>government in terms of the reasons why they</b>  16 <b>had called me to leave my post, and these</b>  17 <b>were the HMIC report on the collision at sea.</b>  18 <b>Delhi did not feature at all. I knew then that</b>  19 <b>Delhi was a catalyst for it all but as my</b>  20 <b>previous evidence states, and on the other</b>  21 <b>hand it was my posture that it was to do with</b>  22 <b>not necessarily they, but rather the</b>  23 <b>inappropriate behaviour and inappropriate</b>  24 <b>interference by the Chief Minister, Fabian</b>  25 <b>Picardo and Michael Llamas on that day, on</b></p> <p style="text-align: center;">Page 9</p>	<p>1 <b>complete Operation Delhi file, and again --</b>  2 <b>and also message between senior officers and</b>  3 <b>I suggested that they also approach Mr</b>  4 <b>Richardson. I also suggested that they</b>  5 <b>approach Mr Ullger, who may be able to</b>  6 <b>assist the inquiry and I suppose that I thought</b>  7 <b>that that was covered by whatever we were</b>  8 <b>going to get from them too. Looking at it</b>  9 <b>from the prism that I am looking at it today,</b>  10 <b>like we all are, certainly that was not the</b>  11 <b>optics that I was focusing on at the time and</b>  12 <b>yes, I have to agree with you that I should</b>  13 <b>have looked at them but I didn't. But I</b>  14 <b>underscore again that those messages have</b>  15 <b>not been deleted. They are here before the</b>  16 <b>inquiry albeit in a very late timing and I'm</b>  17 <b>glad that they are here.</b>  18 Q. You talk about preparing your evidence  19 but you do appreciate, do you not, that there  20 are two exercises that are expected of a core  21 participant: on the one hand there is  22 preparing your evidence and the documents  23 that you intend to put forward in your  24 evidence, and on the other hand there is an  25 obligation to provide disclosure of</p> <p style="text-align: center;">Page 11</p>
<p>1 <b>the 12th and the sort of gradual vibes that</b>  2 <b>were being sent through -- which I have</b>  3 <b>covered in my previous evidence. So, sorry,</b>  4 <b>I maybe have gone on a bit too much.</b>  5 Q. No, no.  6 THE CHAIRMAN: Put the question again,  7 Mr Santos.  8 MR SANTOS: Yes.  9 <b>A. I am sorry.</b>  10 Q. The question is that he was the senior  11 investigating officer of the prosecution which  12 you say was the catalyst and which you say  13 that the Chief Minister interfered with, so  14 why did it not occur to you to go into your  15 messages with him?  16 <b>A. It just did not, and I wish it had because</b>  17 <b>we wouldn't be here discussing this point</b>  18 <b>here but what I do remember is that this</b>  19 <b>particular strand that you are asking about</b>  20 <b>was requested by me through my lawyers,</b>  21 <b>obviously, to the STI -- I seem to think it was</b>  22 <b>the previous solicitors to the inquiry --</b>  23 <b>providing them a wide range of lines of</b>  24 <b>inquiry that we suggested they should follow,</b>  25 <b>and in one of those inquiries was the</b></p> <p style="text-align: center;">Page 10</p>	<p>1 documents, any documents that might assist  2 the Chairman in his factfinding exercise and  3 could either support or disprove one CP's  4 case or another CP's case? Do you  5 appreciate that?  6 <b>A. Mr Santos, I appreciate that but I want</b>  7 <b>you and everybody, the public, to understand</b>  8 <b>that I called for this inquiry and it has ruled</b>  9 <b>my life for the past five years. I have</b>  10 <b>contributed with everything that I thought I</b>  11 <b>possibly could. It has not been an easy road.</b>  12 <b>It has been a very bumpy road, a bumpy road</b>  13 <b>in many, many senses, in every sense of the</b>  14 <b>word navigating through that and I hope you</b>  15 <b>will be able to take me through that particular</b>  16 <b>road, and having this oversight, yes, I accept</b>  17 <b>responsibility for that oversight but I have</b>  18 <b>disclosed hundreds and hundreds of pages of</b>  19 <b>statements, thousands and thousands of pages</b>  20 <b>of other materials. There was nothing</b>  21 <b>sinister behind this. I have put my heart and</b>  22 <b>soul to this inquiry. Nobody wants it over</b>  23 <b>more than I do. I am not enjoying being here</b>  24 <b>now. It has affected my health and rest</b>  25 <b>assured that there was nothing sinister</b></p> <p style="text-align: center;">Page 12</p>

<p>1 <b>whatsoever in me not providing those. I have</b>  2 <b>been kicking myself. Mr Santos, I have been</b>  3 <b>kicking myself with disappointment and even</b>  4 <b>a level of embarrassment.</b>  5 Q. Did you realise at that point when you  6 were looking through your WhatsApp  7 messages as part of the exercise of preparing  8 your evidence that there might also be  9 messages on your work phone that you had  10 handed in to the RGP that might be relevant  11 to the inquiry's terms of reference?  12 <b>A. Again, if I am not mistaken, I think that is</b>  13 <b>a line of inquiry that I proposed to the inquiry</b>  14 <b>itself, to the inquiry team at the time. I think -</b>  15 <b>- I stand to be corrected -- but I think that at</b>  16 <b>the point of suggesting potential witnesses</b>  17 <b>and potential lines of inquiry where specific</b>  18 <b>lines for the STI to ask for RGP mobiles,</b>  19 <b>official mobile exchanges, so I think at the</b>  20 <b>time I considered that. That was also</b>  21 <b>pertinent, that any mobile phones, official</b>  22 <b>mobile phones be considered.</b>  23 Q. We will check that. I will take you to one  24 example of that in due course. It is fair to  25 say that you also did not disclose any direct</p> <p style="text-align: center;">Page 13</p>	<p>1 <b>context to those messages, because read on</b>  2 <b>their own, they could be misinterpreted or</b>  3 <b>misread as indeed has been the case in my</b>  4 <b>view by the government parties.</b>  5 Q. Just to clarify, you say that they do not  6 really alter the landscape but you do accept  7 that they are relevant?  8 <b>A. Yes, I accept that.</b>  9 Q. As you just alluded to, your lawyers  10 wrote to the inquiry on 6 July 2022  11 proposing that Mr Ullger and Mr Richardson  12 be asked to provide evidence. At that stage  13 did you review your messages with Mr  14 Ullger and Mr Richardson?  15 <b>A. I wish I had because why would I be</b>  16 <b>proposing those witnesses? It's nonsensical</b>  17 <b>that I propose those witnesses and then not</b>  18 <b>act on them. It's just highlighting an</b>  19 <b>oversight on my part. I wish, I seriously</b>  20 <b>wish, I had. Like I said, I've been kicking</b>  21 <b>myself from the moment this came to light.</b>  22 Q. Have you deliberately withheld any  23 communications between you and RGP  24 officers from the inquiry --  25 <b>A. At all, and I am glad -- I am glad that they</b></p> <p style="text-align: center;">Page 15</p>
<p>1 messages between you and any other police  2 officer, such as Mr Ullger or Mr Yeats. Did  3 you, at the time of preparing your statement,  4 go through your messages with Mr Ullger or  5 Mr Yeats?  6 <b>A. I did not. I did not.</b>  7 Q. For the same reason?  8 <b>A. For exactly the same reason, and I think</b>  9 <b>that once you read my evidence it will more</b>  10 <b>or less perhaps understand better that there is</b>  11 <b>no reference to "I messaged Mr Yeats" or "I</b>  12 <b>messaged Mr Ullger" and there is certainly</b>  13 <b>no deliberate drafting of statements to</b>  14 <b>exclude that. That is not the case whatsoever.</b>  15 Q. Do you now accept that some of your  16 messages with Mr Ullger are relevant to the  17 inquiry's terms of reference in that they shed  18 light on, for example, your reaction to the  19 HMIC report and your wishes around the  20 time of your exchanges with the GPA?  21 <b>A. It gives it a bit more detail but in essence</b>  22 <b>it doesn't really portray more information; it</b>  23 <b>does not enhance matters. In a way I'm glad</b>  24 <b>although reluctantly glad, if it makes sense,</b>  25 <b>that I am going to be allowed to provide</b></p> <p style="text-align: center;">Page 14</p>	<p>1 <b>are here, that the messages are here. Had the</b>  2 <b>situations been different and they -- these</b>  3 <b>messages would have been in the work phone</b>  4 <b>as they should have been, ironically, we</b>  5 <b>wouldn't have the privilege of having them</b>  6 <b>before me so in the sense it is regrettable that</b>  7 <b>I am here having to do this explaining, but on</b>  8 <b>the other hand, those messages are before the</b>  9 <b>inquiry.</b>  10 Q. Have you deliberately withheld any  11 evidence on account of your concern that it  12 might be unfavourable to you?  13 <b>A. Absolutely not because I have provided</b>  14 <b>previous disclosure that is not favourable to</b>  15 <b>me and it has been used against me and I've</b>  16 <b>done that willingly. It's not that I have sort</b>  17 <b>of taken a choice of what to do or what not to</b>  18 <b>do. It has been done willingly, so certainly</b>  19 <b>not.</b>  20 Q. In 2023 your phone was seized by Mr  21 McVea as part of his investigation into the  22 inquiry data breach. You say that when you  23 received your personal phone back from him  24 you could no longer access your WhatsApp  25 accounts as they had been deactivated. That</p> <p style="text-align: center;">Page 16</p>

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<p>1 is in paragraph 11 of your 9th witness 2 statement. Do you know why they had been 3 deactivated? 4 <b>A. I'll get to that point but I think it's 5 important that I highlight that up until 6 February or rather March 2023, the relevant 7 messages that we are discussing now had not 8 featured in my mind. Less did they feature 9 once I had no access to my mobile 10 communications or computer equipment 11 simply because my focus shifted entirely 12 from the inquiry, regrettably, to a bit of a 13 survival mode in dealing with the crisis and 14 malicious and scurrilous allegations that I 15 have to defend in a court of law, in police 16 interviews. So, if they didn't feature initially, 17 less did they feature when I had not even got 18 access to them. And then answering your 19 question as to the inability to access them, 20 when I eventually got them back about seven 21 or eight months later at my insistence, there 22 was still a lot of things happening in the 23 background in terms of what I term to be a 24 malicious complaint to destroy my reputation 25 and good name, and I then dipped into the --</b></p> <p style="text-align: center;">Page 17</p>	<p>1 <b>were taken from me, I discontinued my 2 subscriptions. I was not going to be paying 3 for a number that I no longer had access to. 4 In fact, I took on a new device and a new 5 number for personal safety reasons and 6 personal security reasons too. I didn't feel 7 comfortable after my phone had been trawled 8 through with a lot of personal matters and 9 family photographs that I was going to 10 perhaps be still -- there's a cloud left hanging 11 there and I didn't want to be associated with 12 them. I've still got them, but they are not 13 active, and so I left it at that. I said, "Well, 14 my life has carried on with another device. I 15 can't access them", but I knew that -- I didn't 16 know what -- I didn't give it importance at 17 the time. But when the requirement was 18 made that WhatsApp, the issues of 19 WhatsApps between myself and former 20 colleagues was in question, I knew I had the 21 peace of mind that my phone had been 22 forensically examined and therefore all the 23 messages that were up there that the inquiry 24 was after were going to be there, and that 25 gave me some solace and peace of mind,</b></p> <p style="text-align: center;">Page 19</p>
<p>1 <b>shall we describe it, my old, the 4000 2 number, the old --</b> 3 Q. Personal device? 4 <b>A. -- personal device that had previously 5 been a work device, or at least had been used 6 for work purposes. I dipped into it to try and 7 find out evidence not related to the inquiry 8 but related to the allegations that had been 9 made against me because I knew that it 10 contained -- I seem to remember that it 11 contained evidence that contradicted what 12 people involved in the whistleblowing 13 campaign -- people who had been 14 whistleblowing against me had messaged me 15 and I knew that and I wanted -- but then 16 when I went to access the WhatsApp, the 17 app, the application Lola was there and I was 18 not allowed to go in it. A message came out 19 saying that the account had been deactivated 20 and I had to insert certain security protocols, 21 which I could not meet. I could not meet 22 those security protocols because the number 23 that had been allocated to that account and 24 been used on the device, I no longer was a 25 subscriber to. The minute that my devices</b></p> <p style="text-align: center;">Page 18</p>	<p>1 <b>that, well, at least I won't be accused of 2 deleting or mysteriously disappearing 3 messages, as has been. So, in my case, the 4 messages are there but that is the reason why, 5 part of the reason, and I am not using this as 6 an excuse, by no means. It's been my 7 obligation. I've apologised in my statement, 8 and I do so here publicly and I wish that I 9 wouldn't find myself in this situation.</b> 10 Q. Did you raise the fact that you could no 11 longer access your WhatsApps with Mr 12 McVea or with the RGP? 13 <b>A. To be frank, after what I have been 14 through with the RGP and Mr McVea, I 15 couldn't keep them further away from me. I 16 didn't want anything to do with them.</b> 17 Q. And have you contacted WhatsApp or 18 anyone else to seek assistance in reactivating 19 those messages? 20 <b>A. I don't need to. I don't need to. Not -- I 21 mean, I don't need to because for the 22 purposes of the inquiry, the messages are 23 there. I'm not bothered about -- if there is a 24 need to, and I hope there isn't, then I'll have 25 to explore that but right now, for the purposes</b></p> <p style="text-align: center;">Page 20</p>

5 (Pages 17 to 20)

<p>1 <b>of this inquiry there is no need for me to.</b>  2 Q. When did you find out that Mr McVea  3 had taken a forensic image of your phone?  4 <b>A. Straight - well, when he took them, I</b>  5 <b>don't know when it happened, but</b>  6 <b>straightaway, as soon as they seized those</b>  7 <b>devices. It's an automatic assumption that</b>  8 <b>that's the process that's going to be followed.</b>  9 Q. You have given evidence in your ninth  10 witness statement as to your use of mobile  11 phones. Just to confirm the position, there  12 were three phones which were you were  13 using in May 2020 in the entirety of May  14 2020. There is your personal device. We  15 will just go through them one by one and  16 then you can tell me whether you disagree.  17 There is your personal device, your personal  18 number, which you used from 2006 until  19 2023. I think you have referred to that as  20 your 4000 number?  21 <b>A. Yes.</b>  22 Q. There is the work device that was issued  23 to you by the RGP, you think in around  24 October 2019 and which you handed in on 9  25 June --</p> <p style="text-align: center;">Page 21</p>	<p>1 officials, such as His Excellency the  2 Governor, the Chief Minister, the Minister of  3 Justice, the Attorney General", etc. So, your  4 primary contact number with those  5 individuals, especially the Chief Minister, the  6 Attorney General, Dr Britto, was your  7 personal number?  8 <b>A. Which had previously been my work</b>  9 <b>number.</b>  10 Q. Yes.  11 <b>A. So, I had a chat history with them and it</b>  12 <b>was at the time that we opted for the Android</b>  13 <b>devices, for the Samsungs.</b>  14 Q. Can I just ask you: did you also use your  15 work phone to contact those individuals?  16 <b>A. In my statement I mentioned that I may</b>  17 <b>have even told them that I have a new</b>  18 <b>number, but for convenience sake or laziness</b>  19 <b>or practicality's sake, I did not, I don't think</b>  20 <b>that I continued operating with them on the</b>  21 <b>new number, on the work number. I'm sure</b>  22 <b>that if I had, Mr Picardo, for example, or any</b>  23 <b>of the others would have disclosed that in</b>  24 <b>much the same way as I am not sure whether</b>  25 <b>I had two numbers for Mr Picardo. I am not</b></p> <p style="text-align: center;">Page 23</p>
<p>1 <b>A. As I left.</b>  2 Q. -- 2020 as you left, on or around 9 June,  3 or is your evidence that you definitely  4 handed it in on 9 June?  5 <b>A. I think it was on 9 June, yes.</b>  6 Q. And then there was an additional personal  7 device which you have referred to which you  8 purchased in late May 2020, but which you  9 say you did not use for RGP business and we  10 will call that the new personal device?  11 <b>A. Absolutely. That was purchased for a</b>  12 <b>specific purpose and on the advice of my</b>  13 <b>team to secure communications.</b>  14 Q. If we can go to E257, please, which is  15 your ninth statement, just focusing on your  16 work device, paragraph 5, you explain that  17 you were issued with your work device, and  18 then at paragraph 5 you say: "I began to  19 wind down on the use of [REDACTED] 4000 for  20 official purposes and because I was not  21 proficient with the use of the Samsung  22 device, the transition was slower than what it  23 might have been and I continued to use my  24 now personal number for RGP  25 communications, mainly with senior</p> <p style="text-align: center;">Page 22</p>	<p>1 <b>sure on which of them I was corresponding</b>  2 <b>with because it only highlights -- when the</b>  3 <b>chat logs are exported, it highlights Fabian</b>  4 <b>Picardo. Any other members[?] I do not</b>  5 <b>know and I think we've asked that question</b>  6 <b>of the inquiry. I still don't know the answer,</b>  7 <b>but it definitely had two numbers and I don't</b>  8 <b>know whether there's only accountability for</b>  9 <b>one before the inquiry or the two, but in</b>  10 <b>essence I was corresponding for convenience</b>  11 <b>sake, for continuity's sake, and because I was</b>  12 <b>used to the iPhone as opposed to the</b>  13 <b>Samsung, I was using my personal number,</b>  14 <b>which had previously been my work number.</b>  15 Q. You say in paragraph 7 over the page,  16 "However, my use of the work phone", as  17 you say, was limited because I was not  18 proficient with the Android system used by  19 Samsung. I did use it to try and develop my  20 proficiency and therefore did receive emails  21 and text messages from colleagues on it" and  22 then you expand on this in your tenth  23 statement, which is at E1085, paragraph 7 --  24 sorry, paragraph 5. Sorry, just above. It is  25 paragraph 5, apologies. "Whilst the RGP's</p> <p style="text-align: center;">Page 24</p>

6 (Pages 21 to 24)

<p>1 mobile devices policy came into effect on 30 2 October 2019, I underestimated the personal 3 challenge which I faced in transitioning from 4 my iPhone 4 operating system to the Android 5 9.0 Pie operating system used by the new 6 RGP work-issued mobile phones. I did not 7 find it user friendly at all and struggled 8 heavily with it. I was conscious of the need 9 to transition to the new devices and I was 10 determined to discontinue the use of my old 11 work iPhone 4 which by then had become 12 my personal phone but regrettably it was not 13 straightforward and it took longer than it 14 would have wished. I did manage to use the 15 Samsung phone for email and some text 16 messages." When you say that you were not 17 proficient and did not find it user friendly, 18 can you please elaborate on what you mean 19 by that? 20 <b>A. I am not a technical person at all and it's 21 a question of habits, I suppose, but I found 22 the device, which I think was a very basic 23 device -- again, I can't even remember the 24 model, but it was a very basic device, and it 25 was clunky in its use, it was not quick as the</b></p> <p style="text-align: center;">Page 25</p>	<p>1 <b>A. I remember that there was an app 2 installed, yes, and obviously now perhaps 3 contaminated by what I had read that there 4 was a command team, an SNT, as I think it 5 was referred to, WhatsApp Group opened up 6 in the new Samsung and discontinued in the 7 previous -- from the iPhone's, so evidently it 8 was a crucial period that we were going 9 through in terms of Covid and so forth, so 10 having seen now the type of exchanges that 11 we were going through, which obviously 12 they don't relate to the inquiry -- that's why 13 they have been redacted -- but having read 14 the unredacted versions, there was sufficient 15 exchanges there relating to how we were 16 policing Covid and the regulations and 17 bouncing information off from each other in 18 terms of myself and Mr Ullger, but that 19 communication flow I would expect perhaps 20 some of it would have also featured in the 21 command team, especially if I wanted to 22 circulate or Mr Ullger or any other senior 23 officer wanted to circulate a posture or 24 anything of relevance to what we were doing 25 at the time. So, yes, there would have been</b></p> <p style="text-align: center;">Page 27</p>
<p>1 <b>iPhone was, and so -- and the features were 2 different, completely different. It was slow, 3 sluggish and I just did not get used to it and I 4 struggled and I it competed with my pace at 5 work. I wanted to do things on the hop, 6 perhaps, and the Samsung just slowed me 7 down. It was linked -- in terms of emails, it 8 was linked, so I was receiving the same 9 emails on the Samsung as I was on the 10 iPhone so if I wanted to respond to 11 something quick, again because of 12 convenience, I would do it on the iPhone but 13 the emails were already received in the 14 Samsung itself too, so both devices were 15 receiving the same. That's as far as emails 16 are concerned, the same as I had been 17 receiving them on the laptop or the office PC, 18 but obviously WhatsApps, not. WhatsApps - 19 - the Samsung had a different WhatsApp 20 account, specifically for -- ascribed to that 21 subscriber number, so there was not a 22 mirroring of what I was receiving on the 23 Samsung and the iPhone. 24 Q. So, did you use WhatsApp on that 25 Samsung device?</b></p> <p style="text-align: center;">Page 26</p>	<p>1 <b>traffic in that app.</b> 2 Q. Was your use of WhatsApp limited to the 3 SNT or did you use it for other 4 conversations? 5 <b>A. Probably I did -- I only used it for the 6 SNT because I'm sort of coming -- 7 answering with some logic here, not that -- 8 because I was not friendly with that and the 9 less I used it the better.</b> 10 Q. And just to clarify you obtained the 11 phone in October 2019. Did the position stay 12 the same for this next seven months until 13 May 2020? 14 <b>A. That's what I gather from the 15 correspondence and Mr Yeats has kindly 16 disclosed in terms of his communications 17 with the Gib telephone officials and when the 18 handsets were received and when they were 19 possibly set up and so forth. I had no 20 knowledge of that till I -- that was the first 21 time I was reading it when Mr Yeats has 22 presented it to the inquiry, so when I received 23 it, as I'm not a gadget man, but yes, you start 24 looking around and start fiddling around with 25 it and thinking, "Well" -- I didn't have -- I</b></p> <p style="text-align: center;">Page 28</p>

7 (Pages 25 to 28)

1 had left the purchase of them, the  
 2 procurement of them. I didn't get involved  
 3 in that so I wasn't going to complain, but I  
 4 was, you know -- I would have had a  
 5 different choice.  
 6 Q. So, in terms of contacting Mr Ullger, Mr  
 7 Richardson and Mr Yeats, was your primary  
 8 number for contacting them the 4000  
 9 number?  
 10 A. Yes.  
 11 Q. And is your evidence that you did not  
 12 exchange direct messages with them with the  
 13 Samsung?  
 14 (10.35)  
 15 A. If they communicated - whoever  
 16 communicated irrespective of device, I  
 17 would have responded, so it's not that for  
 18 example, if there was a message from Mr  
 19 Ullger or Mr Yeats or Mr Richardson on the  
 20 Samsung device. That I would respond to  
 21 them on the - I would - the continuity of the  
 22 chat would follow. In accordance with the  
 23 device it was received - in accordance with  
 24 whatever the device was received.  
 25 Q. Then, can we talk about the mobile

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1 devices policy that came into effect around  
 2 the time --  
 3 A. In fact, I seem to remember, just as an  
 4 example, there is a - in Mr Richardson's  
 5 disclosure of chats with me, that he was  
 6 trying to call me one evening, or at night and  
 7 I respond to him saying: "You never gave me  
 8 a chance to pick up, buddy --  
 9 Q. To answer.  
 10 A. --sort of thing, and he says, "I'll call you  
 11 on the other phone." And I'm thinking why  
 12 would that have been? So, he was calling me  
 13 on the iPhone by the looks of it and I had not  
 14 picked up and he was telling me that he was  
 15 going to call me on the other phone, and I  
 16 can only assume it was because obviously the  
 17 iPhone was either on charge or on silent  
 18 mode which I - and I didn't pick up, but it's  
 19 just an example of the type of switching --  
 20 for want of a better expression - there was,  
 21 but not necessarily cross -- cross. It is  
 22 switching.  
 23 Q. I have just been given the reference by  
 24 my brilliant junior. E251, I think, is what  
 25 you are referring to at the bottom of the page.

Page 30

1 9 March 2020. The penultimate message.  
 2 A. Yes.  
 3 Q. "You never gave me a chance to pick up."  
 4 A. At 21:25, so nearly half past nine in the  
 5 evening, he must have been calling me.  
 6 Q. And then he says, "Okay, will call now on  
 7 the other --  
 8 A. "Loan", but I take it to be "phone".  
 9 Q. -- phone, I presume he says.  
 10 A. Yes.  
 11 Q. That would have been the --  
 12 A. The Samsung.  
 13 Q. The Samsung, yes. Now, can we turn to  
 14 the policy? It is E319. It states there on the  
 15 cover page that the aim of the policy is to set  
 16 out guidelines for these mobile data devices.  
 17 It is endorsed and signed by you and then  
 18 approved on 30 October, so around the --  
 19 A. Sorry, it's not signed by me, that's not my  
 20 signature.  
 21 Q. All right, thank you. Whose signature is  
 22 that?  
 23 A. That is Mr -- I believe it's Mr Ullger's.  
 24 Q. Mr Ullger's. But you originally endorsed  
 25 this policy?

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1 A. Yes, I think my former colleagues alluded  
 2 to the fact that when there was a new policy,  
 3 it would do the round-robin and everybody  
 4 would comment on it before it was endorsed  
 5 by myself. But then it would also be ratified  
 6 by the police authority --  
 7 Q. The GPA.  
 8 A. -- in accordance with what the Police Act  
 9 says.  
 10 Q. Yes, and we can see that there: approval  
 11 by the GPA. On 30 October 2019. You  
 12 address the rationale for this in your 10th  
 13 statement at E1085. Paragraph 6. You say,  
 14 "My recollection is that the RGP's Mobile  
 15 Devices Policy was particularly aimed at  
 16 preventing the use of personal devices to  
 17 capture any data of evidential value, given  
 18 the recent experience at the time the  
 19 organisation had had with an officer using his  
 20 personal device to record an incident from a  
 21 CCTV screen facility. It was therefore  
 22 designed to significantly reduce the use of  
 23 personal devices and safeguard any personal  
 24 data from somehow ending up being leaked  
 25 or shared in error or inadvertently." Then in

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<p>1 paragraph 7, you fairly acknowledge that 2 your continued use of your personal device 3 was not best practice as was intended by the 4 Force Order and policy. Can I now take you 5 to 920 please, which is the Force orders that 6 we were looking at yesterday? I am not 7 going to take you through all of it, just a 8 couple of paragraphs. First of all, on 921, the 9 bottom of the page, there is a reference to: 10 having to provide explanations to the Data 11 Protection Commissioner following what 12 appears to be a breach of the Data Protection 13 Act by an officer. In this case, the issue lies 14 with the use of a personal device for work 15 purposes. Then over the page in bold at the 16 bottom. We looked at this passage yesterday, 17 but it is a reference to a change in Force 18 policy and it says that "The use of mobile 19 phones or other personal electronic devices 20 for work purposes will cease forthwith." You 21 accept in your evidence that you were not 22 complying with this order, do you not? 23 <b>A. Yes.</b> 24 Q. Do you accept, therefore, that continuing 25 to use the phone was a bit stronger than "not</p> <p style="text-align: center;">Page 33</p>	<p>1 <b>A. Yes.</b> 2 Q. We are not going to go into the hard 3 drive, but you refer to the hard drive, and my 4 question is: did you, at the time of your 5 retirement, ask Mr Yeats or anybody else to 6 back up the contents of your work mobile 7 phone? 8 <b>A. No, it was only --</b> 9 Q. Why -- 10 <b>A. It was only emails and reports that I had</b> 11 <b>filed in my personal internet file.</b> 12 Q. Why did you not seek to back up your 13 work mobile phone? 14 <b>A. It just did not occur to me. That was a</b> 15 <b>very difficult period and that was a reaction</b> 16 <b>to the difficulties that I was encountering and</b> 17 <b>the suspicions that I had. That was a reaction</b> 18 <b>to it. I wish I had, perhaps. Again, I wish I</b> 19 <b>had, but it was not something that crossed my</b> 20 <b>mind, the backing of the work phone.</b> 21 Q. Did you realise that your work phone 22 would be wiped when you handed it in, in 23 accordance with the policy? 24 <b>A. That did not feature in my mind at all. I</b> 25 <b>had bigger, bigger matters to consider.</b></p> <p style="text-align: center;">Page 35</p>
<p>1 best practice", as you put it, because you 2 were actually not complying with a Force 3 order? 4 <b>A. Yes.</b> 5 Q. Now, just going back to your work 6 device, the first mention of this was in your 7 9th witness statement at E257, which is when 8 the Inquiry asked you whether you were 9 operating more than one phone as 10 Commissioner of the RGP. Why did you not 11 mention it earlier than that? 12 <b>A. I think I was alluding to the fact that I had</b> 13 <b>pointed the Inquiry in that direction from the</b> 14 <b>letter. Was it July 22? I think you were...</b> 15 Q. There was a letter -- I think you are 16 referring to a letter sent to the Inquiry by 17 your solicitors. 18 <b>A. Yes.</b> 19 Q. Yes. I mean, I have.... We will take you 20 to that letter after the break, once I have had 21 the chance to reconsider it. 22 <b>A. Okay.</b> 23 Q. Then at E99, we have a letter that you 24 sent Mr Ullger on 15 November 2022, where 25 you refer to the hard drive.</p> <p style="text-align: center;">Page 34</p>	<p>1 Q. Of course, given the circumstances of 2 your departure and the grievances that you 3 had expressed, why did it not occur to you to 4 preserve that potentially relevant evidence? 5 <b>A. Those grievances materialised</b> 6 <b>subsequently. At the time, my focus was to</b> 7 <b>recover from a very traumatic period,</b> 8 <b>something which I have not been able to do</b> 9 <b>so to this date. But the question of the public</b> 10 <b>inquiry was not even featuring anywhere</b> 11 <b>whatsoever in anybody's radar. There was</b> 12 <b>nothing mooted on that. So, this transpired</b> 13 <b>later. So, again, by looking at it through the</b> 14 <b>prism of today, it makes sense, the question</b> 15 <b>that you are asking. But looking -- if you put</b> 16 <b>that, and bring it back to the actual day that it</b> 17 <b>happened, there is no reason why I should</b> 18 <b>have done so. I -- again, because the emails</b> 19 <b>that had already been backed up from --and</b> 20 <b>they could not be going missing or astray for</b> 21 <b>any technical glitch, that was my worry, had</b> 22 <b>already been preserved. And the concerns at</b> 23 <b>the time were the fact that serious allegations</b> 24 <b>had been made against the RGP, against me,</b> 25 <b>of misconduct by Hassans, because we had</b></p> <p style="text-align: center;">Page 36</p>

<p>1 <b>attempted to execute the warrant, and</b>  2 <b>following on from what had transpired after</b>  3 <b>that, what had rolled over in terms of being</b>  4 <b>muscled out. I felt that what I had</b>  5 <b>safeguarded was sufficient.</b>  6 Q. You were aware that in any -- you are  7 aware that in any prosecution arising out of  8 an RGP investigation, the RGP will be under  9 a duty of disclosure of relevant documents.  10 Why did you not arrange for your messages  11 to be preserved, at least insofar as they  12 related to Operation Delhi?  13 <b>A. I think they were preserved because they</b>  14 <b>were in my -- whatever was relating to Delhi</b>  15 <b>was on my 4000 number.</b>  16 Q. So, there was nothing relating to Delhi on  17 your work --  18 <b>A. Save -- that we have come to the</b>  19 <b>conclusion that message of 12 May, of Mr</b>  20 <b>Richardson advising me that he is going to</b>  21 <b>do a warrant. That is not relevant in the</b>  22 <b>context of a criminal investigation, because</b>  23 <b>the relevance is the fact that he went to the</b>  24 <b>warrant. That's whether he told me before he</b>  25 <b>left, verbally, or he called me on the phone or</b></p> <p style="text-align: center;">Page 37</p>	<p>1 31 July 2020. Did you, at that point, ask the  2 RGP to preserve the contents of your work  3 phone in case there was relevant  4 information?  5 <b>A. No. That -- in all fairness, that was the</b>  6 <b>last thing that I had in my mind. This is the</b>  7 <b>first -- well, I don't think public inquiries are</b>  8 <b>very frequent in Gibraltar and certainly it has</b>  9 <b>been a bit of an overwhelming experience for</b>  10 <b>me to have the Inquiry named after me, and</b>  11 <b>therefore it's been a learning curve to me and</b>  12 <b>probably to many people in this room.</b>  13 Q. Just to be clear, the Inquiry has not  14 named itself after you. I understand that in  15 common parlance, it has become the McGrail  16 Inquiry, but we purposely did not name it  17 after you. Yes, the newer personal device.  18 Just a couple of questions about that. Do you  19 still have access to messages on that phone or  20 have they been lost when you -- through the  21 McVea seizure process.  22 <b>A. On which phone do you... sorry?</b>  23 Q. On the newer personal device. The one  24 that you purchased towards the end of May  25 2020.</p> <p style="text-align: center;">Page 39</p>
<p>1 <b>sent me an email. It's relevant, it's been</b>  2 <b>given a relevance that I didn't see at the time</b>  3 <b>was necessary.</b>  4 Q. So, is your evidence that it is only that  5 message relating to Operation Delhi that was  6 sent between your devices, or that you do not  7 recall?  8 <b>A. I am not certain, but definitely I</b>  9 <b>remember being told by Mr Richardson by</b>  10 <b>message that he was at Hassans' doorstep, as</b>  11 <b>previously arranged that he was -- this was</b>  12 <b>previously arranged. It's not that I was -- it</b>  13 <b>caught me by surprise, so it is not that. And</b>  14 <b>the reason why I asked him to do so was</b>  15 <b>because I wanted to, out of courtesy and</b>  16 <b>knowing the consequences and planning for</b>  17 <b>consequence management out of that</b>  18 <b>intervention, that I had to at least inform the</b>  19 <b>authorities mentioned. And that's the</b>  20 <b>purpose of that. There is nothing more to it.</b>  21 <b>There's nothing of evidential value in Delhi,</b>  22 <b>or, I dare say, to the Inquiry.</b>  23 Q. Your lawyers called for an inquiry very  24 briefly after your departure, and it was  25 announced by Mr Picardo in Parliament on</p> <p style="text-align: center;">Page 38</p>	<p>1 <b>A. There's nothing there. Neither on the</b>  2 <b>other one that was -- that was acquired way</b>  3 <b>after I left.</b>  4 Q. Yes.  5 <b>A. But even that one, which was a Spanish</b>  6 <b>mobile phone that my daughter gave me.</b>  7 Q. That one as well, your evidence is that  8 that one was no longer active when it was  9 returned. Can we go to E256 very briefly  10 because Mr Richardson has disclosed some  11 messages from his phone to your new  12 personal device. Why did you not disclose  13 these exchanges with Mr Richardson from  14 your new personal device? (After a pause)  15 Sorry, yes. No, this is from your... 255 is  16 the ones from the new device, and then there  17 are six, some from Mr Richardson to your  18 4000 number. Those two sets of messages  19 have been disclosed by Mr Richardson. Why  20 did you not disclose these exchanges through  21 the Inquiry?  22 <b>A. I did not -- I have not relied on any of</b>  23 <b>these until it was highlighted to me by STI</b>  24 <b>having the government parties rightly raising.</b>  25 <b>So, I have not relied on them at all. And like</b></p> <p style="text-align: center;">Page 40</p>

10 (Pages 37 to 40)

<p>1 <b>I said, right up until March -- March 2023,</b>  2 <b>they had not featured in my mind for my</b>  3 <b>evidence. But less did they feature even</b>  4 <b>afterwards when I did not even have access</b>  5 <b>to them. So -- and there was, again, I am not</b>  6 <b>using this as any excuse, but you have to bear</b>  7 <b>in mind that I was prompted by nothing and</b>  8 <b>no one to, I mean, to consider these</b>  9 <b>messages, notwithstanding the fact that from</b>  10 <b>March '23 I never had access to them. So</b>  11 <b>that is my short answer to that.</b>  12 Q. Just focusing on E256 about -- just above  13 halfway down, on 16 June, at 10 past 8 in the  14 evening Mr Richardson messages you and  15 says, "Richard said you have an email from  16 JG", and you respond --  17 <b>A. Where are we, sorry?</b>  18 Q. Sorry, it is -- actually on your screen, it is  19 the third message.  20 <b>A. Okay. Okay.</b>  21 Q. "Richard said you have had an email  22 from JG", and then two messages down, you  23 say, "Yes, I did. You can check it [out]..." -- I  24 think you meant to say "...in my work email  25 with my response too." Now, if we go to</p> <p style="text-align: center;">Page 41</p>	<p>1 Q. So, you mean on your personal device?  2 <b>A. From the 4000 number?</b>  3 Q. From the 4000 number. And, as you say,  4 I mean, what is being pointed out to me is  5 that it says: sent from my iPhone.  6 <b>A. There you go.</b>  7 Q. So, the point is that the day after your  8 departure from the police, you still had  9 access to your emails.  10 <b>A. Until that day --</b>  11 Q. Your email account.  12 <b>A. Evidently, until that day, yes.</b>  13 Q. Do you know when your access to emails  14 was removed?  15 <b>A. If not on that day or the next. I remember</b>  16 <b>being -- and it was a very heartbreaking</b>  17 <b>moment to feel that, because when you are in</b>  18 <b>that position in the executive, in the police,</b>  19 <b>the phone is constantly ringing and buzzing</b>  20 <b>and there was that void of silence, basically,</b>  21 <b>which I now welcome, but at the time was a</b>  22 <b>bit of a shock. So, I didn't receive anything</b>  23 <b>after that. So, no emails in the -- that may be</b>  24 <b>going out Force-wide or anything like that.</b>  25 <b>So, I assume that I was disconnected very</b></p> <p style="text-align: center;">Page 43</p>
<p>1 C4920, there is an exchange between Mr  2 Gaggero and you, an email exchange on 10  3 June at 5.00 in the morning, which is  4 something that is also referred to in the  5 messages. Is that the email that that was  6 being referred to in that exchange?  7 <b>A. I think it is, and I have just realised if, if</b>  8 <b>you go down.</b>  9 Q. Yes.  10 <b>A. "Bueno". Further down. Down. No,</b>  11 <b>sorry, up. Sorry. I beg your pardon, Sorry.</b>  12 <b>That it is from my work email.</b>  13 Q. Yes.  14 <b>A. That is at 20 to 8 in the morning, the</b>  15 <b>following day of my --</b>  16 Q. Well, this is exactly what I was going to  17 ask you.  18 <b>A. I am sorry. I am sorry.</b>  19 Q. How did you manage to send an email  20 from your work email on the morning of the  21 10 June?  22 <b>A. Obviously, I must have received his email</b>  23 <b>on my phone and responded without realising</b>  24 <b>that I had not been disconnected from the</b>  25 <b>RGP email account.</b></p> <p style="text-align: center;">Page 42</p>	<p>1 <b>shortly afterwards. I think the RGP will be</b>  2 <b>able to digitally prove the time --</b>  3 Q. When the last --  4 <b>A. -- the time and date, but I can tell you that</b>  5 <b>it was, if not on that day, that morning.</b>  6 Q. In June 2023, you agreed an order with  7 the RGP for access to data from them. I am  8 hoping that we can get that order up on  9 screen. It is 1047. Thank you. This was a  10 process through which you identified a  11 number of documents that you considered  12 would be worth you -- I do not want to put  13 words in your mouth -- but would be worth  14 you seeing for the purposes of providing  15 disclosure. I just want to ask you a couple of  16 questions. First of all, you did not seek  17 access to your work phone as part of that  18 order, did you?  19 <b>A. Can we scroll further up? Is it -- is E the</b>  20 <b>last one?</b>  21 Q. No. It goes down to...  22 <b>A. Okay. I see that E says SMT chat groups</b>  23 <b>from July 2015 to June, which was my last</b>  24 <b>day.</b>  25 Q. I was about to ask you that. Well, let us</p> <p style="text-align: center;">Page 44</p>

11 (Pages 41 to 44)

<p>1 deal with that first of all?</p> <p>2 <b>A. Okay.</b></p> <p>3 Q. It appears from that order that you</p> <p>4 consider that that SMT chat may contain</p> <p>5 relevant messages.</p> <p>6 <b>A. Yes. And they did. And they did because</b></p> <p>7 <b>in that desk clear out that they did and they</b></p> <p>8 <b>discovered a pen drive that I had saved 2017</b></p> <p>9 <b>- on 2017, messages from the SMT chat</b></p> <p>10 <b>group. Pertinent to --</b></p> <p>11 Q. The airport incident.</p> <p>12 <b>A. Exactly. So...</b></p> <p>13 Q. But there is no -- as I say, there is no</p> <p>14 request there for you --</p> <p>15 <b>A. So that was the chat group that I was</b></p> <p>16 <b>referring to, that I expected to -- I didn't even</b></p> <p>17 <b>know that the transition from iPhone to</b></p> <p>18 <b>Samsung, in my case, would have</b></p> <p>19 <b>discontinued the use of the previous SMT</b></p> <p>20 <b>account because there was one, as evidently I</b></p> <p>21 <b>have been able to prove from those</b></p> <p>22 <b>messages.</b></p> <p>23 Q. Yes.</p> <p>24 <b>A. But that chat, from my understanding,</b></p> <p>25 <b>from the forensic analysis, was discontinued</b></p> <p style="text-align: center;">Page 45</p>	<p>1 work phone, did it?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Subject to the SMT point.</p> <p>4 <b>A. Well, RGP devices, I would read as --</b></p> <p>5 <b>maybe it is not as clear. I give it to you, that.</b></p> <p>6 <b>It is not as clear as my own work phone, but</b></p> <p>7 <b>RGP devices, which includes my phone.</b></p> <p>8 Q. Yes, but it says: WhatsApp conversations</p> <p>9 of the SMT chat group.</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. If those conversations were conducted on</p> <p>12 RGP devices.</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. It does not say: all of my conversations</p> <p>15 on my work device with Mr Ullger.</p> <p>16 <b>A. I accept that, but I accept that it could</b></p> <p>17 <b>have been better worded and sort of</b></p> <p>18 <b>requested. But that goes without saying that</b></p> <p>19 <b>that would have helped me and that would</b></p> <p>20 <b>have helped the Inquiry too. So, it is not that</b></p> <p>21 <b>I did not specifically. Because if I am asking</b></p> <p>22 <b>for that, it is the obvious question, like you</b></p> <p>23 <b>raised up, why was it not so.</b></p> <p>24 Q. Now, going back -- sorry, we are</p> <p>25 switching between devices a bit, but I want to</p> <p style="text-align: center;">Page 47</p>
<p>1 <b>in September, October 2019.</b></p> <p>2 Q. Yes, correct.</p> <p>3 <b>A. So --</b></p> <p>4 Q. Which coincides with the time when the -</p> <p>5 -</p> <p>6 <b>A. New phones came in.</b></p> <p>7 Q. -- change. Yes.</p> <p>8 <b>A. So that is -- I didn't know that at the time</b></p> <p>9 <b>of providing that information to the Inquiry,</b></p> <p>10 <b>and that is the purpose why the date range is</b></p> <p>11 <b>from 2015. Because I think -- I don't know</b></p> <p>12 <b>why 2015, though.</b></p> <p>13 Q. Perhaps you were casting the net as wide</p> <p>14 as possible.</p> <p>15 <b>A. No, no, no, no. There must be a specific</b></p> <p>16 <b>reason.</b></p> <p>17 Q. Yes, perhaps -- I overheard Mr Wagner</p> <p>18 talking about Alcaidessa, so perhaps...</p> <p>19 <b>A. There we go. There we go.</b></p> <p>20 Q. Yes.</p> <p>21 <b>A. Yes, thank you, Mr Wagner.</b></p> <p>22 Q. Mr Wagner helpfully points out, in G</p> <p>23 there is a reference to Alcaidessa. Just going</p> <p>24 back to my original question, this did not</p> <p>25 seek any disclosure of WhatsApps from your</p> <p style="text-align: center;">Page 46</p>	<p>1 ask you about the contents of some messages</p> <p>2 on your personal device. To start with, Mr</p> <p>3 Richardson. Mr Richardson disclosed the</p> <p>4 messages between your personal phones to</p> <p>5 the Inquiry in June 2023. Later in December</p> <p>6 2024, we also obtained the messages between</p> <p>7 you and Mr Richardson from the image of</p> <p>8 your phone taken by Mr McVea. If we go to</p> <p>9 C7005, please, there we can see the</p> <p>10 exchanges between you and Mr Richardson.</p> <p>11 The first point that I want to check is over the</p> <p>12 page on 7006. There is a message halfway</p> <p>13 down - well it is towards the bottom of your</p> <p>14 screen of 30 April 2020. Then the next</p> <p>15 message that we can see is on 22 May. So,</p> <p>16 there are no messages between you and Mr</p> <p>17 Richardson from 30 April to 22 May. Can</p> <p>18 you offer any explanation as to why there are</p> <p>19 no messages between those two dates?</p> <p>20 <b>A. There are no messages there because</b></p> <p>21 <b>maybe we did not exchange any messages.</b></p> <p>22 <b>That is the most obvious explanation there.</b></p> <p>23 <b>Mr Richardson, I don't know his schedule at</b></p> <p>24 <b>the time or neither do I know mine. It may</b></p> <p>25 <b>be I have been away on holiday; he may have</b></p> <p style="text-align: center;">Page 48</p>

12 (Pages 45 to 48)

<p>1 <b>been away from the country or on leave and</b>  2 <b>there have been no requirement to message</b>  3 <b>each other.</b>  4 Q. Well, it is quite an intense period of time  5 in Operation Delhi; the time of the search  6 warrants, the time of the applications for the  7 search warrants.  8 <b>A. A lot of that conversation surrounding</b>  9 <b>Delhi was done face to face and emails. So, I</b>  10 <b>haven't -- to be honest, I haven't drawn --</b>  11 <b>gone to because it's been a laborious task.</b>  12 <b>But I am sure that either the RGP or the</b>  13 <b>Inquiry could check to see whether there was</b>  14 <b>any exchanges of emails during that period</b>  15 <b>which, if anything, fills this gap that is being</b>  16 <b>looked at as suspicious and when gaps in</b>  17 <b>communications, as I understand Mr</b>  18 <b>Richardson has alluded to, are frequent.</b>  19 Q. But we do know that you were in  20 communication on 12 May by WhatsApp  21 message and we do not have that message,  22 which is why we are asking these questions.  23 <b>A. But the 12 May of message was not on</b>  24 <b>this phone.</b>  25 Q. Well, we look at 30 April and Mr</p> <p style="text-align: center;">Page 49</p>	<p>1 <b>relates to the instruction for me to retire from</b>  2 <b>the GPA.</b>  3 Q. Well, we have that audio file. It is the  4 conversation, the exchange, the conversation  5 that you had with Mr --  6 <b>A. But, I think -- that conversation is after I</b>  7 <b>have been instructed to be -- to retire by the,</b>  8 <b>by the GPA, and I tell -- Mr Llamas called</b>  9 <b>me and I tell him that it's got nothing to do</b>  10 <b>with the HMIC or the -- that the reasons for</b>  11 <b>why I am being instructed to leave has</b>  12 <b>nothing to do with HMIC or the collision at</b>  13 <b>sea; that it is to do with Delhi.</b>  14 Q. Delhi. Yes.  15 <b>A. And he goes -- and he doesn't -- so that --</b>  16 <b>that is -- but it is not related to the Delhi</b>  17 <b>investigation itself. It's to do with the</b>  18 <b>circumstances of why I ended up receiving</b>  19 <b>those two letters on 22 May.</b>  20 Q. But my question to you is that given your  21 phone habits and given that there were  22 message exchanges between Mr Richardson  23 and you about Operation Delhi on this phone,  24 is it likely that you would have switched to  25 your work numbers during these weeks</p> <p style="text-align: center;">Page 51</p>
<p>1 Richardson says to you at 1:27, "Was  2 thinking more about the reason for  3 monitoring the conversation and by whom.  4 Did you see Fischel's latest email? He sets  5 out the government position for ownership,  6 which was omitted from the original letter."  7 So that message relates to Operation Delhi,  8 does it not?  9 <b>A. Yes, to, I think, a meeting that was going</b>  10 <b>to be scheduled at the bunker in Number Six</b>  11 <b>with the Chief Secretary, which I believe I</b>  12 <b>attended to at the request of Mr Richardson,</b>  13 <b>with Mr Wyan.</b>  14 Q. Then --  15 <b>A. And Mr DeVincenzi was present too.</b>  16 Q. Then if we look at, for example, 22 May,  17 there is an audio file relating to Mr McGrail -  18 - sorry, relating to the Attorney General,  19 where you take a call from the Attorney  20 General. That, again, was related to  21 Operation Delhi.  22 <b>A. I didn't even register at all about that.</b>  23 Q. Yes, but my question is: does that relate  24 to Operation Delhi?  25 <b>A. On the 22nd? I think that that - no. That</b></p> <p style="text-align: center;">Page 50</p>	<p>1 between 30 April and 22 May to discuss  2 Operation Delhi matters?  3 <b>A. Like I say, discussions of Operation Delhi</b>  4 <b>mainly took place by face-to-face, sat across</b>  5 <b>the table. I wouldn't -- I do not think that Mr</b>  6 <b>Richardson had the time to make discussions.</b>  7 <b>Messaging of the sort, as you can see, are</b>  8 <b>snippet requests or snippet bits of</b>  9 <b>information. It is not a full blown discussion.</b>  10 Q. My question to you is, would it have  11 taken place via personal phone or by work  12 phones?  13 <b>A. If there was any discussion, I think it</b>  14 <b>would have been work phone. Sorry, that -</b>  15 <b>the way I am more principally</b>  16 <b>communicating with them. That gap, I can</b>  17 <b>only suggest, is filled by checking to see</b>  18 <b>whether we had emails exchanging during</b>  19 <b>them. And just because there was not a</b>  20 <b>WhatsApp message does not mean to say that</b>  21 <b>it was not discussed.</b>  22 Q. Can we now look at this audio recording  23 that we just -- can we focus on that audio  24 recording. Why did you not disclose that  25 audio recording to the Inquiry with your</p> <p style="text-align: center;">Page 52</p>

1 witness statements, in 2022?  
 2 **A. I did not even know that I had it because I**  
 3 **had not checked the -- I had not checked the**  
 4 **text messages with my former colleagues. I**  
 5 **didn't even know that I had it.**  
 6 Q. You did not know that you had an audio  
 7 recording of your conversation with Mr --  
 8 **A. Well, obviously I must have known that I**  
 9 **had it when it was sent to me, but I didn't**  
 10 **rely on it because I had not checked my**  
 11 **phone in my preparation for my evidence.**  
 12 Q. I understand that, but did you not recall  
 13 from previously --  
 14 **A. No.**  
 15 Q. -- that you had --  
 16 **A. No. No.**  
 17 Q. That there had been a recording of your  
 18 conversation with --  
 19 **A. At --**  
 20 Q. Let me just finish the question. You had  
 21 had a conversation, a very -- quite a seminal  
 22 conversation with Mr Llamas which had  
 23 been recorded by Mr Richardson, and are  
 24 you saying you did not recall that you  
 25 possessed a recording of that?

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1 **A. I did not recall the recording at all.**  
 2 Q. So, you are not --  
 3 **A. I recall the conversation, but I do not -- I**  
 4 **cannot recall Mr Richardson recording it. If**  
 5 **he did so, I cannot recall that, and evidently**  
 6 **he sent it. And I -- that has not featured in my**  
 7 **mind at all because -- or else, I would have**  
 8 **been able to frame my evidence in**  
 9 **accordance with what the audio says. And I**  
 10 **think there is a difference in what my**  
 11 **recollection is to what the audio is.**  
 12 Q. Because you had recorded the meetings  
 13 of the 13th, the 15th and the 20th, but that  
 14 was two days prior to this conversation.  
 15 **A. Exactly.**  
 16 Q. But is your evidence that you were not  
 17 aware that Mr Richardson was recording this  
 18 conversation?  
 19 **A. I cannot be certain that I was aware. I**  
 20 **cannot be certain. He certainly -- I cannot**  
 21 **remember him putting his phone out,**  
 22 **recording it like that. I cannot be -- I would**  
 23 **be misguiding you if I said I was aware.**  
 24 Q. If we can now look at the forensic image  
 25 of your phone. These can be found at E833.

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1 This is a forensic image that -- well, these are  
 2 WhatsApp exchanges between you and Mr  
 3 Richardson that have been recovered from  
 4 the forensic image taken of your phone. The  
 5 first message that we can see there is dated 5  
 6 June 2020.  
 7 **A. Yes.**  
 8 Q. If we go back to Mr Richardson's phone,  
 9 C7002, we will see that the messages go back  
 10 to 14 February 2019. This is a matter which  
 11 -- and if we go to C7007, you will see that 5  
 12 June message and then prior to that there are  
 13 messages on the 27th, the 26th, the 23rd and  
 14 the 22nd of May, including that audio file.  
 15 **A. Mmh.**  
 16 Q. We have asked, as I say, we have asked  
 17 DC Garcia to explain the discrepancy  
 18 between those messages. Are you aware of  
 19 any reason why the messages on your -- on  
 20 the forensic image of your phone do not go  
 21 back as far as Mr Richardson's?  
 22 **A. I wish I could help you, but I have not got**  
 23 **the foggiest of how that works.**  
 24 Q. DC Garcia, we asked him to explain that  
 25 and he came up with two explanations. One

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1 of the explanations, potential explanations,  
 2 that he gives, is that the lack of messages  
 3 going back before 5 June 2020 could be  
 4 attributed to a change of phone? You did not  
 5 change your phone in June 2020, did you?  
 6 **A. No. No.**  
 7 Q. So do you have any other explanation for  
 8 why the messages abruptly start on 5 June?  
 9 **A. No, I haven't whatsoever. That's for**  
 10 **forensic computer experts to highlight. I**  
 11 **cannot offer the slightest of opinions or**  
 12 **views on that. I am sorry.**  
 13 Q. Now, towards the end of the main Inquiry  
 14 hearing on 8 May 2020, your old laptop was  
 15 discovered in an office used by the now  
 16 retired Inspector Paul Barker. This is dealt  
 17 with by Mr Yeats in his evidence. Can we  
 18 turn to DC Garcia's report, which is at E48,  
 19 please? Here, we looked at this yesterday,  
 20 and he sets out a report containing his  
 21 findings in relation to his examination of the  
 22 laptop. I just want to look at the fourth  
 23 paragraph on that page, which says, "As part  
 24 of my enquiries, I contacted, by telephone,  
 25 Mr Paul Barker on Wednesday 12 June 2024

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<p>1 at about 10:45 hours and asked him about his 2 use of the said laptop. Mr Barker confirmed 3 that he has been using this laptop for several 4 years, since early 2020, when he was staff 5 officer to Mr McGrail, and media officer. He 6 had the password to access Mr McGrail's 7 profile and had his permission from him to 8 do so. He then continued to use the laptop 9 for his duties until his retirement in early 10 2024. Why did you give the password to 11 Inspector Barker? 12 (11.10) 13 <b>A. I cannot specifically remember giving it 14 to him, but I'm not -- I don't (?) dispute, 15 them man, I had a -- have high regard for this 16 gentleman, he was my staff officer, ex- 17 military Intelligence Corps. I had him as a -- 18 a well-regarded, seasoned officer, I trusted 19 him. So, I -- he worked with me on a daily 20 basis, and maybe for fluid-- for business 21 fluidity I did. I cannot specifically remember 22 that, but I'm not going to dispute it.</b> 23 Q. Did you give your password to anybody 24 else? 25 <b>A. Perhaps my PA and personal secretary.</b></p> <p style="text-align: center;">Page 57</p>	<p>1 THE CHAIRMAN: No, no. 2 <b>A. -- but I know that the way we worked 3 was practically an open sort of arrangement.</b> 4 THE CHAIRMAN: And in particular, you 5 did not give him the password to your device 6 after you had left the service? 7 <b>A. No, certainly not. Certainly not. I don't 8 even recall, or have the foggiest of what the 9 password was.</b> 10 THE CHAIRMAN: Okay. 11 <b>A. I don't, I don't... No way. No, no... at 12 all, at all. And I think there is a footprint left 13 whenever you... Well, a digital footprint 14 left, as to when the -- any profile is accessed. 15 And I believe my profile was accessed after I 16 left.</b> 17 Q. Yes. I am about to ask you about that. 18 THE CHAIRMAN: Yes. 19 <b>A. Which I find odd.</b> 20 THE CHAIRMAN: We will come to that, 21 but I am just investigating, if you can help us 22 -- 23 <b>A. Yes.</b> 24 THE CHAIRMAN: -- to when it was that 25 you gave the password. And your answer is</p> <p style="text-align: center;">Page 59</p>
<p>1 <b>One of whom (?) --</b> 2 Q. Any -- 3 <b>A. No, nobody else. That -- the 4 commissioner's suite had four staff members 5 in addition to the commissioner. There was 6 the media officer, a police officer and a 7 civilian pol-- media officer, and two support 8 staff who are not police officers, in terms of 9 secretarial duties. And I trusted them 10 implicitly. But I can't be sure, I'm just 11 saying that if I did -- shared it, it would have 12 been with them.</b> 13 THE CHAIRMAN: If you did give him the 14 password, when are you likely to have done 15 that? Was that during your service? 16 <b>A. Yes, absolutely, absolutely.</b> 17 THE CHAIRMAN: It is a long -- he was 18 your staff officer -- 19 <b>A. Yeah.</b> 20 THE CHAIRMAN: -- and so he had access 21 to your -- 22 <b>A. My files.</b> 23 THE CHAIRMAN: Yes. 24 <b>A. If -- I cannot remember specifically 25 giving it to him --</b></p> <p style="text-align: center;">Page 58</p>	<p>1 that it was during -- 2 <b>A. During my service.</b> 3 THE CHAIRMAN: -- during your service? 4 <b>A. Yes. Yes. For example, if if --</b> 5 THE CHAIRMAN: It is okay, we will leave 6 it at that for the moment. 7 Q. The next paragraph says, "Please note 8 that on the basis of Mr Barker's explanation, 9 he would only have had access to the laptop 10 locally. Mr Barker stated he would then 11 remotely access his own RGP profile and not 12 Mr McGrail's. He also only had access to his 13 own emails." And then, if we go to 52, 14 section 2, "The user profiles installed". The 15 second paragraph under that says, "Although 16 the Ian McGrail profile has not been 17 registered as having been used in a long time, 18 there clearly is plenty of user activity after 20 19 August 2018. Therefore, I cannot explain 20 why the last login for this profile is registered 21 as at that date, when clearly there is evidence 22 showing that the profile was being used well 23 after that date. For example, there is 24 evidence of user activity on 23 June 2020 at 25 1547 hours, with a deletion of an audio file</p> <p style="text-align: center;">Page 60</p>

15 (Pages 57 to 60)

<p>1 with the following name: 2 'MeetingwithAGandDPP20May.m4a'. This 3 audio file is also deleted a further two times: 4 once also on 23 June 2020 at 1546 hours and 5 another one at an earlier date of 4 June 2020 6 at 0701. There is also a further deleted Word 7 document in the Recycle Bin." We do not 8 have to look at that. And then it says, "All 9 artefacts which I have analysed to answer 10 these questions have been created by the 11 profile 'Ian McGrail'. 23 June 2020 is 12 obviously after you departed from the RGP. 13 <b>A. Yes, a for-- two weeks later.</b> 14 Q. Did you access your laptop on 23 June 15 and delete that file? 16 <b>A. How -- I couldn't have access it because I</b> 17 <b>left it behind.</b> 18 Q. Did you ask Mr Barker to access your 19 laptop? 20 <b>A. Certainly not.</b> 21 Q. Were you aware of anyone else accessing 22 your laptop? 23 <b>A. Not at all.</b> 24 Q. Were you aware of anyone deleting those 25 files?</p> <p style="text-align: center;">Page 61</p>	<p>1 <b>A. Ah okay.</b> 2 Q. -- on 23 June and once on" -- 3 <b>A. I am -- I'm with you and I beg your</b> 4 <b>pardon, I beg your pardon. I cannot recall,</b> 5 <b>but if the laptop was in my possession, I must</b> 6 <b>have deleted it. So, the explanations that I</b> 7 <b>can give is that I exported it. It must have</b> 8 <b>been exported to the laptop and then onto a</b> 9 <b>hard drive.</b> 10 Q. And why did you delete it at that point? 11 <b>A. Because it was already saved on the hard</b> 12 <b>drive. I cannot --</b> 13 Q. What was the problem with it remaining 14 on your work laptop? 15 <b>A. There is no problem, but I suppose it was</b> 16 <b>a very sensitive matter.</b> 17 THE CHAIRMAN: I am sorry, I did not 18 catch your answer. 19 <b>A. Sorry. There was no specific problem to</b> 20 <b>having left it in the -- in -- on the laptop, but</b> 21 <b>it was a sensitive matter and it merited that</b> 22 <b>sort of level of -- of discreetness.</b> 23 Q. So, your evidence is that you believe that 24 you deleted the message, the recording on 4 25 June, but you are unaware of how there came</p> <p style="text-align: center;">Page 63</p>
<p>1 <b>A. Not at all.</b> 2 Q. What about on 4 June, which was -- 3 <b>A. I'm -- I'm glad that the file in question</b> 4 <b>was on my 4000 phone, or else that would</b> 5 <b>have been a problem. And in fact I disclosed</b> 6 <b>it from my 4000 phone, exported from my</b> 7 <b>4000 phone.</b> 8 Q. What about 4 June, 2020 at 7 in the 9 morning? 10 <b>A. 4 June?</b> 11 Q. 4 June, which is prior to your departure. 12 Were you aware of that deletion of the 13 recording of the meeting with the AG and the 14 DPP? 15 <b>A. Where? I...</b> 16 Q. Three lines from the bottom, "another one 17 at an earlier date of 4 June, 2020 at 0701." 18 <b>A. That would have been during my time in</b> 19 <b>service.</b> 20 Q. Yes, that is why I am asking. 21 <b>A. But it does not say that there's any</b> 22 <b>deletions there.</b> 23 Q. Sorry, it says, just the preceding sentence 24 says, "This audio file is also deleted a further 25 two times: once also" --</p> <p style="text-align: center;">Page 62</p>	<p>1 to be further deletions on 23 June. 2 <b>A. I was not in service then.</b> 3 Q. And now I just want to address one point 4 in relation to the hard-copy documents. Your 5 evidence in your eighth statement is that you 6 did not destroy any documents other than 7 under the direction and request of the RGP. 8 Can we please go to the transcript for day 9 seven, page 30. Okay, so page 30, line 12. 10 This is my questions to you at the end of 11 your evidence -- no, sorry, it is on the second 12 day of your evidence. And I said, "On 24 13 March 2023 your lawyer, Charles Gomez, 14 said that you had after your retirement, 15 retained some personal files because you 16 were concerned that a criminal conspiracy 17 was being covered up. Was the criminal 18 conspiracy that Mr Gomez referred to the 19 alleged conspiracy investigated in Operation 20 Delhi?" You said, "The Delhi conspiracy 21 was on its own, and then there was a 22 conspiracy to stop Delhi, yes, that is my 23 suspicions." And I said, "Did the personal 24 files that you retained include the Operation 25 Delhi papers or other material relating to</p> <p style="text-align: center;">Page 64</p>

16 (Pages 61 to 64)



<p>1 Operation Delhi? And then you say, "I 2 believe they did, yes." And I said, "How did 3 you retain those files? Was it on paper, on 4 disk or --", and you said, "I had all my emails 5 backed up onto a hard drive, an external hard 6 drive and there were some files, paper files, 7 which after I -- I provided the evidence to the 8 Inquiry, I destroyed. The hard drive, I 9 returned to the RGP." So just to clarify, is 10 the position that at the time of your 11 retirement you retained some electronic 12 documents in a hard drive and you also 13 retained some hard-copy papers relating to 14 Operation Delhi? 15 <b>A. The electronic ones were emails. In those 16 emails it contained attachments. So, there 17 were documents within the emails as such, 18 electronically. And in terms of hard copy, 19 they were in the main the letters I -- I 20 received, which inherently I must have 21 printed off from the digital -- from the digital 22 version and kept in hard copy, the letters 23 from the -- Hassans challenging the le-- the 24 legality and accusing the police of abuse of 25 power and so forth. My response -- my</b></p> <p style="text-align: center;">Page 65</p>	<p>1 <b>collision at sea. Those were -- they were not</b> 2 <b>files, they were hard-copy printouts, shall we</b> 3 <b>say, of documents that were already in my</b> 4 <b>emails.</b> 5 Q. So you, are you saying that you took 6 them with you -- 7 <b>A. Yes, yes.</b> 8 Q. -- on the day of your retirement? 9 <b>A. The thing is, I -- I op-- I work... I prefer</b> 10 <b>working with hard copies, and -- and I had</b> 11 <b>rather have this than two screens open at the</b> 12 <b>same time and flick-- flipping from one --</b> 13 <b>flicking from one screen to the next, I prefer</b> 14 <b>working with hard copies and reading, and if</b> 15 <b>I have to refer, it's easier for me. I'm</b> 16 <b>perhaps a bit of a dinosaur there.</b> 17 Q. Now, if we go to your letter to 18 Commissioner Ullger, or E99, in the final 19 paragraph you refer to the hard drive and you 20 refer to some data referring to Operation 21 Delhi. But there is nothing in that letter 22 referring to hard-copy documents, is there? 23 <b>A. The word in question -- and you rightly</b> 24 <b>point out, it's -- if we go up to the first page,</b> 25 <b>I think.</b></p> <p style="text-align: center;">Page 67</p>
<p>1 <b>responses to that, when it says "Operation</b> 2 <b>Delhi file", no, I want to make it very, very</b> 3 <b>clear that I did not have access to the</b> 4 <b>Operation Delhi investigation file. Whether</b> 5 <b>it was, I -- I wouldn't have known how to</b> 6 <b>access it, I would have been granted access if</b> 7 <b>I had sought it, but I wasn't, I didn't seek</b> 8 <b>access to it, so all matters relating to Delhi</b> 9 <b>were emails that I -- that were directed to me</b> 10 <b>or I was -- or that I -- or that I was copied in</b> 11 <b>to. I didn't have any access to -- to see how</b> 12 <b>the investigation was progressing, what</b> 13 <b>actions were -- that -- oblivious to all of that.</b> 14 <b>I only got periodic briefings from Mr</b> 15 <b>Richardson, so I had no idea what was going</b> 16 <b>on in the Operation Delhi file, and therefore</b> 17 <b>the -- the description of "files" is perhaps</b> 18 <b>misleading. It was letters and the National</b> 19 <b>Decision Modelm which formed part of the</b> 20 <b>process to -- to develop the suspicion, or</b> 21 <b>rather justify the suspicions and -- and</b> 22 <b>describe the suspicions. And I think -- seem</b> 23 <b>to think, I am not certain, but a copy of the</b> 24 <b>section 15 request or report that I did for -- at</b> 25 <b>the request of Mr Picardo on -- on the</b></p> <p style="text-align: center;">Page 66</p>	<p>1 Q. Bottom paragraph of the first page? 2 <b>A. Yes, yes, "some data", the word there</b> 3 <b>should have been "some hard-copy</b> 4 <b>documents", because that's where I'm -- I'm</b> 5 <b>referring to mainly correspondence, so the</b> 6 <b>correspondence that I'm referring to, and I</b> 7 <b>can confirm, is the -- the hard copies one.</b> 8 <b>My apologies at -- at perhaps creating some</b> 9 <b>misunderstanding there, but I'm referring --</b> 10 <b>if I was referring to hard drive, I wouldn't</b> 11 <b>have referred -- if -- if it was electronic data,</b> 12 <b>it would have been contained in the hard</b> 13 <b>drive itself.</b> 14 Q. And then at the end of the letter you say, 15 "I would therefore be very grateful if you 16 could advise me of the best arrangements to 17 return the external hard drive with the data." 18 <b>A. Yes.</b> 19 Q. And then at E97, in your exchange with 20 Mr Riley, he asks a series of questions. "Was 21 any copy made" -- yes, the subject is 22 "External hard drive". And then at the 23 bottom of that first page, a series of 24 questions. "Was any copy made of the 25 external hard drive? Please describe what</p> <p style="text-align: center;">Page 68</p>

17 (Pages 65 to 68)

<p>1 data was copied. Have you retained any 2 copies of data that was held?" 3 MR CRUZ: Sir -- 4 Mr SANTOS: This includes. I am not going 5 to ask about the hard drive, I am only going 6 to ask about hard-copy documents. 7 MR CRUZ: (inaudible) we flagged it 8 yesterday, it has been discussed. 9 Q. But this was discussed at the main 10 Inquiry hearing as well. I am purely going to 11 ask about hard-copy documents. My 12 question is there, that exchange with Mr 13 Riley, those are his questions. And your 14 response, E95, to those questions, you say at 15 E95, halfway down the page. It is just at the 16 bottom of the screen. "As part of my 17 obligations and duties under this request 18 from the Inquiry, I undertook a search of the 19 hard drive and made copies of the documents 20 found in the attached disclosure lists. The 21 intention behind making a copy of these 22 documents was to provide them to the 23 Inquiry." And then, three, you say, "I can 24 confirm I have retained a single copy of the 25 documents which are listed in the attached</p> <p style="text-align: center;">Page 69</p>	<p>1 Q. Yes, but let me just cut to the chase. Your 2 evidence, you say that you deleted your hard 3 copy documents under the instruction of the 4 RGP. 5 THE CHAIRMAN: Destroyed. 6 Q. Sorry, destroyed, thank you. You 7 destroyed the hard-copy documents under the 8 instruction of the RGP. Can you point to 9 anywhere in that letter where you refer to the 10 hard-copy documents that you took with you 11 upon your departure? 12 <b>A. No, I -- maybe -- maybe it's -- I'll take 13 your word: if it's not there, it's not there. I'm 14 -- I would have to take my time to read it and 15 maybe offer up (?), but I am not going to (?).</b> 16 Q. Well, Mr Wagner will be able to re- 17 examine you and he can put the document if 18 he locates it. 19 <b>A. I appreciate that. So, looking at the wider 20 picture --</b> 21 THE CHAIRMAN: Well, is that perhaps a 22 convenient moment to have a...? 23 MR SANTOS: Just one... Well, no, that is 24 fine, perhaps it is. 25 THE CHAIRMAN: Yes.</p> <p style="text-align: center;">Page 71</p>
<p>1 disclosure lists. I confirm I have not kept a 2 copy of any other documents", and then, "I 3 will now be destroying those documents". 4 So, is there anywhere in those letters where 5 you refer to separate hard-copy documents? 6 <b>A. The thing is, well, at the time this was a 7 little bit of a confusing issue. And it's not 8 clear and -- and I've had debate with my 9 team about it, because on the one hand I was 10 permitted to make copies to present to the 11 Inquiry, but then I was not allowed to -- it 12 seemed to be that I was not allowed to keep 13 copies of those. And I understand it was to 14 do with the process of how I retained it, and 15 that the RGP wanted to regularise through 16 allowing me through the Inquiry to 17 eventually get access to them and then... 18 But my -- my priority was to present the -- 19 the evidence there, so... But it didn't sit 20 right that I was allowed to provide a 21 statement to the Inquiry with exhibits, but I 22 was not allowed to keep the exhibits. Just... 23 But at the same time, I didn't want to -- I just 24 wanted to follow what I was being told to by 25 the -- the RGP, I didn't want to...</b></p> <p style="text-align: center;">Page 70</p>	<p>1 MR SANTOS: I have learned not to disagree 2 with the Chairman. 3 (11.27) 4 (Adjourned for a short time) 5 (11.42) 6 MR SANTOS: Just a couple more questions 7 on the disclosure process and then we will go 8 into substantive matters from what has been 9 disclosed. Just looking at the wider picture 10 in terms of your electronic and hard copy 11 documents, we have your day books which 12 you say you left in your office at New Mole 13 House when you left but which have never 14 been found, your desktop which again you 15 say you left at New Mole House but has 16 never been located, the hard copy documents 17 which we have just discussed, your work 18 phone which was wiped upon your departure, 19 and specifically your messages with Mr 20 Richardson, at least one message in May 21 2020 which has not been located. Can all of 22 these be explained by an unhappy series of 23 coincidences? 24 <b>A. In terms of the day book, for example, the 25 evidence is before the inquiry. The book</b></p> <p style="text-align: center;">Page 72</p>

<p>1 <b>itself is not either relevant. Notes made that</b>  2 <b>the inquiry is concerned with are before the</b>  3 <b>inquiry, so that is - sorry.</b>  4 Q. The evidence is before the inquiry.  5 <b>A. Yes. I was distracted. So in terms of the</b>  6 <b>day book, the evidence is before the inquiry,</b>  7 <b>albeit not in its original format, because that</b>  8 <b>was admitted way before I even left the</b>  9 <b>service. In terms of the laptop, I believe it</b>  10 <b>has been located and I've been able to give</b>  11 <b>an account as to -- The relevance of the</b>  12 <b>laptop included the contemporaneous notes</b>  13 <b>that I made on 12 and 13 May which were</b>  14 <b>challenged as not being authentic and now</b>  15 <b>have been forensically proved as authentic.</b>  16 <b>So that is also before the inquiry.</b>  17 Q. But my question was about the desktop.  18 <b>A. The desktop. If I can describe it, it was a</b>  19 <b>screen, a screen or two, and a tower</b>  20 <b>underneath all wired up, connected to the</b>  21 <b>printer. That was left in situ, not even</b>  22 <b>disconnected or unplugged. That was left in</b>  23 <b>situ. I cannot understand how - in all</b>  24 <b>fairness to Mr Ullger but challenging Mr</b>  25 <b>Ullger anyway I cannot understand that he</b></p> <p style="text-align: center;">Page 73</p>	<p>1 please. This is your letter to the GPA of 29  2 May, and in terms of the meeting on 15 May  3 what you asserted in that letter was that  4 pressure was put on you to change the RGP's  5 investigative approach to the operation and  6 you accused the Attorney General of  7 interfering with a live criminal investigation.  8 If we can now go to E742 and the bottom of  9 the page, we can see a message from Mr  10 Ullger to you on 15 May where Mr Ullger  11 says to you: "Mate, how did it go?" and your  12 response is: "All good-ish. Too much to  13 explain by text. Chill out. We'll chat on  14 Monday." Why did you describe the meeting  15 as "all good-ish"?</p> <p>16 <b>A. The events of 12 May had caused</b>  17 <b>shockwaves to myself and to my former</b>  18 <b>colleagues. There was a serious element of</b>  19 <b>worry and concern, and I was navigating that</b>  20 <b>storm on an hour-to-hour basis. When I first</b>  21 <b>met with the Attorney General on the next</b>  22 <b>day, and obviously I don't need to go into the</b>  23 <b>content of that meeting, and I came back to</b>  24 <b>brief and there was evidence that there were</b>  25 <b>going to be further meetings, I was - I saw</b></p> <p style="text-align: center;">Page 75</p>
<p>1 <b>says that he cannot recall what happened to it</b>  2 <b>because when he moved into my office</b>  3 <b>eventually it was either there or not, and if it</b>  4 <b>wasn't there, somebody must have taken it</b>  5 <b>from the office. I cannot offer you any more</b>  6 <b>explanations than that.</b>  7 Q. The Government parties make the point  8 that the impression that you gave at the main  9 inquiry hearing through your counsel's  10 submissions and questions was that you had  11 disclosed all relevant communications and  12 evidence. Do you maintain that you have  13 disclosed all relevant communications and  14 evidence?  15 <b>A. Evidently in light of what's transpired,</b>  16 <b>no, but at the time that I was committing to</b>  17 <b>that statement and to that information with</b>  18 <b>my lawyers, yes, that was my honest held</b>  19 <b>belief that I had, like I have explained, I had</b>  20 <b>given that and probably more.</b>  21 Q. Now, to turn to the messages which we  22 have seen in the new disclosure, focusing,  23 first of all, on Operation Delhi, can we go to  24 E717, please, and the bottom of the page.  25 Let us just leave that for now. C4491,</p> <p style="text-align: center;">Page 74</p>	<p>1 <b>my role as perhaps an influencer to try and</b>  2 <b>uphold the integrity of the investigation,</b>  3 <b>stand as a buffer before the investigating</b>  4 <b>officers and ensure that the rule of law was</b>  5 <b>abided by. I saw my role in that and</b>  6 <b>therefore if there was negotiating and</b>  7 <b>mentions I had to take the flak on that. I</b>  8 <b>honestly, and to this day I still believe</b>  9 <b>because I think it's reflected in the history of</b>  10 <b>Operation Delhi, I honestly believed at one</b>  11 <b>point that the Attorney General was, for the</b>  12 <b>reasons that he may know, but that I suspect</b>  13 <b>that he was going to tell me, as he had on</b>  14 <b>previous occasions, that he would have told</b>  15 <b>me: "Ian, look, thank you very much for</b>  16 <b>investigating this. Whatever you are going to</b>  17 <b>bring to me, irrespective of whether there is</b>  18 <b>evidence or not, I will not prosecute." That</b>  19 <b>is the expectation that I was having and was</b>  20 <b>getting. That is why I mentioned to him the</b>  21 <b>question of the magic wand. This had</b>  22 <b>nothing to do with the nolle prosequi. This</b>  23 <b>had nothing - because as we know, a nolle</b>  24 <b>prosequi is entered into when the case is</b>  25 <b>already before the courts and this was not</b></p> <p style="text-align: center;">Page 76</p>

<p>1 <b>already the case, not yet the case. I was - the</b>  2 <b>Attorney General had applied that logic to</b>  3 <b>me on a previous serious - very, very serious</b>  4 <b>- national security matter and therefore I</b>  5 <b>respected that if he was telling me that, there</b>  6 <b>was no point in me completing an</b>  7 <b>investigation which, irrespective of the</b>  8 <b>outcome of the investigation, was not going</b>  9 <b>to prosecute. So I was expecting that. The</b>  10 <b>fact that it wasn't and that we were still on</b>  11 <b>some form of track, twisting and turning in</b>  12 <b>terms of processes and the not necessarily</b>  13 <b>proper processes and procedures of how we</b>  14 <b>should have conducted ourselves, I regarded</b>  15 <b>the meeting to be good-ish, because I was</b>  16 <b>expecting a far worsen situation. Now, by</b>  17 <b>telling him that and telling him to chill out</b>  18 <b>and we'll chat on Monday, I was trying to</b>  19 <b>temper those emotions and managing the</b>  20 <b>worries and concerns that my colleagues had.</b>  21 <b>I felt obliged that I needed to also manage</b>  22 <b>that internal discontent. And that in essence</b>  23 <b>is a very long description of what that</b>  24 <b>message means.</b>  25 Q. But your evidence to this inquiry and</p> <p style="text-align: center;">Page 77</p>	<p>1 interference. Did you at any point raise with  2 Mr Ullger your concern about interference in  3 those meetings?  4 <b>A. My evidence is that it was not only on</b>  5 <b>those three occasions; there was a build-up,</b>  6 <b>because there were occasions when Mr</b>  7 <b>Llamas had told me: "Why don't you deal</b>  8 <b>with the civil servant via the disciplinary</b>  9 <b>route or park - why don't you establish the</b>  10 <b>ownership and don't do anything else on it",</b>  11 <b>and there was a build-up to that, and the rest</b>  12 <b>is already in, well, the audio recordings and</b>  13 <b>explained the contents of that meeting and</b>  14 <b>the tone of that meeting. So yes, from the</b>  15 <b>12th onwards I told my colleagues what had</b>  16 <b>happened and how things were panning out.</b>  17 <b>He was expressing an interest, he was</b>  18 <b>concerned. I think everybody was concerned</b>  19 <b>at command team level and we've heard</b>  20 <b>from both, from at least Mr Ullger and Mr</b>  21 <b>Yeats were concerned and worried.</b>  22 Q. Can we now go to E745, please. Halfway  23 down the page, 16 May 2020 at 12.09 you  24 say: "I am hoping that JL does not force the  25 issue where we have to end up arresting</p> <p style="text-align: center;">Page 79</p>
<p>1 your case at this inquiry has been that those  2 meetings were examples, occasions, of the  3 AG interfering with a criminal investigation,  4 so why would you describe a meeting of that  5 nature as "good-ish" and tell your second-in-  6 command to chill out?  7 <b>A. Exactly. The chilling out factor is</b>  8 <b>because there was concern and I needed to</b>  9 <b>manage that. As I think us humans tend to</b>  10 <b>react better when we are calm and we are sort</b>  11 <b>of more relaxed than on edge, and my</b>  12 <b>intentions were to alleviate any concerns that</b>  13 <b>Mr Ullger may have. The "good-ish" part</b>  14 <b>I've explained. I was expecting far worse an</b>  15 <b>outcome from that meeting. It was still not</b>  16 <b>ideal but in the overall negative surroundings</b>  17 <b>of that meeting, it was good-ish.</b>  18 Q. Did you raise your concerns about  19 interference with Mr Ullger at any stage in  20 relation to those meetings?  21 <b>A. I think I did. I think -- In the run up to</b>  22 <b>12 May, no.</b>  23 Q. I mean the meetings. Did you raise with  24 him -- Your case in the inquiry has been that  25 those meetings were occasions of</p> <p style="text-align: center;">Page 78</p>	<p>1 him." Does that message show that you felt  2 free to arrest Mr Levy if necessary but did  3 not want to, at least at that stage?  4 <b>A. My understanding and recollection is that</b>  5 <b>there was no intentions to arrest Mr Levy in</b>  6 <b>the first place. There was no arrest plan to</b>  7 <b>follow. That's my recollection. However,</b>  8 <b>the situation had changed where, if Mr Levy</b>  9 <b>didn't come in for interview, which were the</b>  10 <b>vibes that we were getting from the Attorney</b>  11 <b>General, that he was likely not going to come</b>  12 <b>on, and, as I say, in my role as head of the</b>  13 <b>organisation, wanting to support the team and</b>  14 <b>to keep the investigation on track and</b>  15 <b>upholding the rule of law without fear or</b>  16 <b>favour or any ill will, that I didn't want it to</b>  17 <b>get to that stage because there would be</b>  18 <b>consequences to whatever actions there was.</b>  19 <b>It was evident at the time that there would</b>  20 <b>have been consequences to the actions that</b>  21 <b>the RGP had carried out and were going to</b>  22 <b>carry out. If it need be picks of why, why?</b>  23 <b>Because it involved Mr James Levy and with</b>  24 <b>possible connections to Mr Picardo.</b>  25 Q. Yes, but my question was is it not</p> <p style="text-align: center;">Page 80</p>

20 (Pages 77 to 80)

<p>1     apparent from that message that you felt free 2     to arrest Mr Levy if necessary? 3     <b>A. It is apparent from that message on its 4     own, yes, but I've just given you a bit of 5     background as to how --</b> 6     Q. Did you feel free to arrest Mr Levy if 7     necessary? 8     <b>A. I was very worried. I was - by that stage 9     I knew that it was going to be very unlikely 10    that I survived what was coming because I 11    was under threat. Now, I stand my ground to 12    a certain degree but as a human being I was 13    very, very worried. I was under threat from 14    12 May onwards that there would be 15    consequences, so I try my best to be up-front 16    and continue with my responsibilities, but 17    eventually I was found that I was unable to 18    discharge them.</b> 19    Q. Can we now go to 7006, please? These 20    are the messages between you and Mr 21    Richardson on Mr Richardson's phone. 22    C7006. About just after halfway down on 23 23    May at 9.20 p.m. you say: "Paul, can you 24    arrange a meeting with Charlie for 25    Tuesday?" Mr Richardson says: "Wow, I</p> <p style="text-align: center;">Page 81</p>	<p>1     <b>could I turn to, but, like I say, it never 2     materialised and I did not meet. That 3     meeting did not go ahead.</b> 4     Q. Can you point to any reference in any of 5     your WhatsApp exchanges between you and 6     Mr Ullger or Mr Richardson to interference 7     in the Operation Delhi investigation by the 8     Chief Minister or the Attorney General? 9     <b>A. I would have to go through the whole - 10    or are you telling me that there isn't, because 11    --</b> 12    Q. I am not telling you either way; I am 13    asking whether you are, in your preparation 14    for this meeting and your consideration of 15    this, whether you have identified any 16    messages which you consider demonstrate 17    interference in the Operation Delhi 18    investigation? 19    <b>A. I think the best evidence about that 20    alleged interference and my reaction to it is 21    contained with - or because it happened on a 22    face-to-face basis, so unless I trawled, if you 23    want me to, I will start reading and give you 24    any hints if there are, I don't know.</b> 25    Q. Have you in the run-up to the hearing</p> <p style="text-align: center;">Page 83</p>
<p>1     was just about to ask how you were. Yes, I 2     can. After court around three. Do you want 3     me to go with you?" "Yes, that would be 4     good, ta. My privilege too. How are you? 5     It's because of a convo I had with my 6     lawyers, an opinion that I would want to 7     share with him. Okay, okay, thanks for 8     arranging." Why did you want to meet? 9     First of all, is that, the Charlie you are 10    referring to there, the stipendiary magistrate? 11    <b>A. I believe it is, yes.</b> 12    Q. Why did you want to meet him? 13    <b>A. That was the day after I had received the 14    instructions to retire and it was a 15    consideration that I had that not knowing 16    who I could turn to for process in terms of 17    authority and in conversations with my team 18    without meaning to now breach any 19    privileged confidence I had with them, but it 20    was to do with a consideration whether I 21    could approach the judiciary to get involved, 22    given that it was all to do with a warrant, and 23    so forth. That was a consideration which was 24    never actioned. It was a moment of, I would 25    describe it in a way of desperation, who</b></p> <p style="text-align: center;">Page 82</p>	<p>1     identified any -- 2     <b>A. No, I haven't. I haven't looked for it 3     either.</b> 4     Q. Do you maintain that the Attorney 5     General and the DPP were seeking 6     improperly to interfere with a live criminal 7     investigation in that meeting on 15 May? 8     <b>A. As per my original evidence, yes.</b> 9     Q. I now want to turn to the reasons for and 10    timing of your decision to take early 11    retirement. This is obviously a matter which 12    we covered at length in the main hearing, and 13    in terms of 29 May, the day when your 14    lawyer sent you a letter, I asked you whether, 15    on that date, your preference was to remain 16    in post rather than retire and you replied: "It 17    was but I had a lot going through my head. 18    There was the vulnerability aspect, the 19    serious concern, but I wanted to see my 20    career through." I then asked you what had 21    changed between 29 May and 5 June when 22    your lawyers sent the email seeking early 23    retirement, and you said: "The pressure was 24    relentless from Mr Pyle. I was getting text 25    messages, emails, late evening, which all</p> <p style="text-align: center;">Page 84</p>

<p>1 suggested that he was going to invoke his 2 powers. By that point my wellbeing was 3 seriously affected, I was contemplating 4 Gibraltar's interests, no doubt my wellbeing 5 took over influenced by the fact that three 6 and a half decades of loyal service to the 7 police and to Gibraltar and to the Crown 8 were in serious jeopardy and the impact that 9 would have in my life." Does that remain 10 your position as to your state of mind on 29 11 May? 12 <b>A. It does, but I want to underscore that I 13 didn't choose to retire; I was forced to retire. 14 I was muscled out. The only two options 15 were I followed the instructions of the GPA 16 or I get sacked by Mr Pyle and that was a 17 very difficult situation to deal with, and 18 between my lawyers and I we planned a 19 staged approach to deal with that. So what 20 the insinuations, because they come carrying 21 more weight than that, than the 29th letter is 22 a mere smokescreen for other ulterior 23 motives. I tell you frankly, that is absolute 24 rubbish, absolute rubbish, and I resent it on 25 behalf of me, myself and my team.</b></p> <p style="text-align: center;">Page 85</p>	<p>1 <b>if we read the messages on their own then the 2 backdrop and the background to them is lost, 3 and if you allow me to I don't mind 4 refreshing as to my thought process at the 5 time, what I was toying with and how my 6 mind worked, if you want me to.</b> 7 Q. Yes, yes, by all means. 8 <b>A. This all arises from a police intervention 9 on allegations of a serious crime that put the 10 whole of Gibraltar, every child, woman and 11 man at risk, including the military base. 12 People had been arrested and there were still 13 further enquiries to be carried out. As a 14 result of those enquiries I am threatened by 15 the Chief Minister because he did not 16 approve of the enquiries that the police were 17 carrying out. At the same time and around 18 that time, there was an investigation or a - 19 yes, an ongoing investigation into a collision 20 at sea. I think it was either the day before, 21 19th or the 18th, when my colleague Mr 22 Yeats wrote off to, having met with the DPP, 23 wrote off to the Attorney General seeking 24 representation or how to go about seeking 25 representation for the RGP on that. Now,</b></p> <p style="text-align: center;">Page 87</p>
<p>1 Q. Can we go to E747 now, please? This is 2 20 May and Mr Ullger messages you at 5.21: 3 "Mate, hate seeing you like this. Let's not 4 talk about you leaving but just the things that 5 we can start to turn things round for us. You 6 have our full support and wouldn't want it 7 any other way. You have been inspirational 8 these past few months and that says a lot for 9 you as an individual. Be strong, mate, big 10 hugs." You reply: "Aw, Rich, thanks, mate. 11 Means a lot. I'm just being realistic of what 12 is likely to happen. It is a ruthless world that 13 these people live in, certainly not ours. My 14 conscience is very peaceful. I mean that." 15 What did you believe was likely to happen? 16 What were you referring to when you said: "I 17 am just being realistic of what is likely to 18 happen"? 19 <b>A. The main significant point here, that this 20 is dated 20 May. At that point no issue of 21 loss of confidence or the likes had been in - 22 well, I was not - nothing of that had been yet 23 flagged or arisen. But all this - and I think 24 it's pertinent that perhaps I provide the 25 backdrop and refresh the backdrop, because</b></p> <p style="text-align: center;">Page 86</p>	<p>1 <b>there were robust and very stern and strongly 2 worded on the tone of the response by the 3 Chief Minister, got all the red flags flying 4 straightaway. I don't have a crystal ball; I 5 could smell it, where this was going to or 6 where this was heading, and I knew there and 7 then the threat as then this not related to the 8 Delhi investigation at all because it was only 9 related to the collision and HMIC in sort of 10 the periphery, shall we say, but I could smell 11 it, that he was coming for me, and I was not 12 wrong. So in terms of it's a ruthless world 13 out there, I knew from previous information 14 how the Government worked and operates. I 15 knew, although it was not as severe, maybe 16 the consequences have not been as severe to 17 the person I'm now going to mention in 18 terms of them, some of them still being in 19 employment, but there is correlation to be 20 drawn. I'm talking about how the 21 Government got rid of the Chief Executive 22 Officer of the Borders and Coastguard 23 Agency, how they got rid of the captain of 24 the port and a retired Royal Navy 25 Commadore, how they got rid of the Chief</b></p> <p style="text-align: center;">Page 88</p>

22 (Pages 85 to 88)

<p>1 <b>Executive Officer of the Financial Services</b>  2 <b>Commission, how they got rid of senior posts</b>  3 <b>in the Gibraltar Health Authority, and others.</b>  4 <b>I could carry on. And others. So I knew how</b>  5 <b>they operated. They fire from the hip, they</b>  6 <b>chop heads, and from what had happened on</b>  7 <b>the 12th I was already seeing that shaping up.</b>  8 Q. Can we now move to E751, please. This  9 is a message, the penultimate message on the  10 page, an exchange between you and Mr  11 Ullger on 24 May, so we have moved  12 forward to the invitation to retire having been  13 received. You say: "Coping, mate. Thanks.  14 Longing for the nightmare to end." A few  15 minutes later you sent a message to Mr Yeats  16 also saying: "Longing for this nightmare to  17 end." How did you envisage the nightmare  18 ending by that point?  19 A. Well, as I said, my options were - I  20 wouldn't even describe them as limited.  21 They were just either that I had to go. By  22 hook or by crook. I was between a rock and  23 a hard place. But within that, and because of  24 the fact that my lawyers advised that the  25 process initiated by the GPA was unlawful or</p> <p style="text-align: center;">Page 89</p>	<p>1 <b>remain in office and to uphold the rule of</b>  2 <b>law. Extremely - and I don't think, with</b>  3 <b>respect to everybody, that I don't think I was</b>  4 <b>prepared or could have been prepared to deal</b>  5 <b>with the situation. I couldn't fall back on any</b>  6 <b>guidance manual, training, mentoring. There</b>  7 <b>was nothing written that I could say: Ian --</b>  8 <b>You know, I didn't know how to deal with it,</b>  9 <b>and it was challenging for my lawyers too</b>  10 <b>because there's the ruthlessness aspect to it,</b>  11 <b>how are they going to react, but I still had</b>  12 <b>that lingering hope that the GPA or</b>  13 <b>somebody, not necessarily in the GPA,</b>  14 <b>wanted to be brought to a situation of, to</b>  15 <b>deconflict the situation and be able to reason</b>  16 <b>and to explain and not that my emails</b>  17 <b>wouldn't have answered and there was a</b>  18 <b>clear barrier there set up by Mr Picardo with</b>  19 <b>me, which could only indicate what my fate</b>  20 <b>was likely going to be looking like, but I still</b>  21 <b>clung to that hope that come commonsense</b>  22 <b>would prevail, and importantly so. It was</b>  23 <b>after I think from the 5th onwards, or maybe</b>  24 <b>even earlier, I remember --</b>  25 Q. Can we get to --</p> <p style="text-align: center;">Page 91</p>
<p>1 <b>wrongly applied, but I think it was even</b>  2 <b>unlawful, against the principles of natural</b>  3 <b>justice, and so forth. I'm not an expert at that</b>  4 <b>but this is what my advice was, that we could</b>  5 <b>challenge it, and challenge it with a view of</b>  6 <b>overturning it. So whilst the negative</b>  7 <b>expectations remained, there was an avenue</b>  8 <b>left where, if we persuaded, if I persuaded</b>  9 <b>the GPA to, you know, first and foremost</b>  10 <b>reverse their decision and, secondly, take my</b>  11 <b>concern seriously. Remember that what I</b>  12 <b>was reporting up was potential corruption but</b>  13 <b>leading right up to the top. This was not -</b>  14 <b>and this is the chief police officer saying it, it</b>  15 <b>is not the layman in the street - but nobody</b>  16 <b>seemed to be concerned about the sabotage</b>  17 <b>or alleged risk that Gibraltar was put in, and</b>  18 <b>more focused on getting rid of Ian McGrail,</b>  19 <b>and that is what I was pulling with. I was</b>  20 <b>pulling with a grossly unfair process that I</b>  21 <b>was being subjected to by the political power</b>  22 <b>and the old arms of Government and the</b>  23 <b>other pulling power where I was being</b>  24 <b>requested to leave, and the other pulling</b>  25 <b>power was my obligations and desire to</b></p> <p style="text-align: center;">Page 90</p>	<p>1 <b>A. I think this is important, or else I may</b>  2 <b>even forget.</b>  3 Q. It is just that there is a lot to cover.  4 <b>A. Yes. I will be very quick. I remember</b>  5 <b>that we wanted to ask Mr Pyle to defer the</b>  6 <b>matter to the arrival of the new Governor,</b>  7 <b>and that was very important to me. In fact,</b>  8 <b>he was arriving two days later or a day later,</b>  9 <b>and I wanted those fresh pair of eyes to look</b>  10 <b>at my situation, and I wasn't granted that</b>  11 <b>possible deconfliction of the situation. Sorry</b>  12 <b>about that, Mr Santos.</b>  13 <b>A. No, no, I understand and I tried not to</b>  14 <b>interrupt you, but there is a lot to get through.</b>  15 <b>E756, please. This is Mr Ullger, towards the</b>  16 <b>bottom of the page, on 29 May which is the</b>  17 <b>day that your letter goes out, that morning,</b>  18 <b>saying: "Done SS ... I'll speak to you in due</b>  19 <b>course." Had you agreed that Mr Ullger</b>  20 <b>would try to talk to Ms Sacramento?</b>  21 <b>A. I was playing all possible cards that I</b>  22 <b>considered were available and given my</b>  23 <b>good relationship with the Minister for</b>  24 <b>Justice, and if there was any possibility of</b>  25 <b>deconflicting the situation, yes, I was doing</b></p> <p style="text-align: center;">Page 92</p>

<p>1 <b>anything that I considered could aid my</b></p> <p>2 <b>situation - and the RGP's situation for that</b></p> <p>3 <b>matter.</b></p> <p>4 Q. Can we go to E1106, please? This is a</p> <p>5 voice note transcript of a message that Mr</p> <p>6 Ullger sent you 45 minutes later. I am not</p> <p>7 going to read it out again because we were all</p> <p>8 here yesterday and I read it at painful length</p> <p>9 yesterday. Just to ask you some questions in</p> <p>10 relation to that, had you told Mr Ullger that</p> <p>11 your position was untenable with the Chief</p> <p>12 Minister?</p> <p>13 <b>A. Not in those terms, no. I don't think I</b></p> <p>14 <b>would say, because the untenability, if we</b></p> <p>15 <b>want to describe it like that, was probably a</b></p> <p>16 <b>difficulty that I was finding not being able to</b></p> <p>17 <b>discharge my responsibilities, so it was not</b></p> <p>18 <b>that as a Government party say that I was</b></p> <p>19 <b>fully aware that the loss of confidence was</b></p> <p>20 <b>the cause for me to go, no. If anything, it</b></p> <p>21 <b>was the opposite. How could I rely on</b></p> <p>22 <b>Fabian Picardo, Micheal Llamas, to support</b></p> <p>23 <b>the police in a prosecution where they were</b></p> <p>24 <b>taking the sides of the other side, of the</b></p> <p>25 <b>suspects? And on top of that the police is</b></p> <p style="text-align: center;">Page 93</p>	<p>1 <b>regulations. There was nothing expressed to</b></p> <p>2 <b>me in any way, shape or form, by anybody,</b></p> <p>3 <b>and I think and I see and I perceive that the</b></p> <p>4 <b>plan in place was simply, because I think it's</b></p> <p>5 <b>very clear to anybody following this inquiry,</b></p> <p>6 <b>was to use the example that - the original</b></p> <p>7 <b>example, because then they've thrown</b></p> <p>8 <b>everything at me except the kitchen sink.</b></p> <p>9 <b>But to use an example of the HMIC and the</b></p> <p>10 <b>collision at sea as a mere screen, as a mere</b></p> <p>11 <b>smokescreen to cover what eventually Mr</b></p> <p>12 <b>Picardo has accepted was a principal reason,</b></p> <p>13 <b>which is the interference with Operation</b></p> <p>14 <b>Delhi, albeit that his interpretation is that I</b></p> <p>15 <b>lied to him. But I contend that and I contest</b></p> <p>16 <b>that, that that is the principal reason but it</b></p> <p>17 <b>doesn't feature initially. Come on, Mr</b></p> <p>18 <b>Santos, I think.</b></p> <p>19 <b>(12.15)</b></p> <p>20 Q. Can we go to now E764 please? At the</p> <p>21 top of that page, there is a message from you</p> <p>22 to Mr Ullger on 30 May 2020. So, the day</p> <p>23 after the letter goes, at 10.32 in the morning</p> <p>24 and you say: "All I want is a dignified exit</p> <p>25 and not a forced one." So at that point were</p> <p style="text-align: center;">Page 95</p>
<p>1 <b>hounded in the way it is, through me, and</b></p> <p>2 <b>indirectly impacting on the Operation Delhi</b></p> <p>3 <b>team. How am I supposed to react to that?</b></p> <p>4 <b>Who can I turn to if the Governor is also then</b></p> <p>5 <b>supporting my foosting(?) of office? There</b></p> <p>6 <b>was nobody that I could literally turn to.</b></p> <p>7 Q. Mr Ullger yesterday referred to you not</p> <p>8 having the confidence of those individuals.</p> <p>9 Was that the way that you saw it?</p> <p>10 <b>A. If anything, the other way round: that,</b></p> <p>11 <b>look, confidence is something that you gain,</b></p> <p>12 <b>you lose, but then you can build up, and I</b></p> <p>13 <b>was always amenable, because if there had</b></p> <p>14 <b>been the opportunity to sit round the table</b></p> <p>15 <b>and negotiate and explain matters in a grown-</b></p> <p>16 <b>up fashion, in a professional fashion, where</b></p> <p>17 <b>any discontent expressed towards me would</b></p> <p>18 <b>have been aired and I would have been able</b></p> <p>19 <b>to respond or even raise my concerns in the</b></p> <p>20 <b>proper forum, then that confidence can either</b></p> <p>21 <b>deteriorate further or improve. So this came,</b></p> <p>22 <b>the loss of confidence, came as a shock.</b></p> <p>23 <b>Until 12 May Ian McGrail was standing</b></p> <p>24 <b>shoulder-to-shoulder with ministers</b></p> <p>25 <b>delivering messages in live TV on the Covid</b></p> <p style="text-align: center;">Page 94</p>	<p>1 you not effectively accepting that you were</p> <p>2 leaving and pushing only for a dignified as</p> <p>3 opposed to forced exit?</p> <p>4 <b>A. The week that followed, from the 29th, I</b></p> <p>5 <b>suppose from 22 May onwards, was</b></p> <p>6 <b>agonizingly painful. Whilst on the one hand,</b></p> <p>7 <b>as I said, I knew that I was probably more out</b></p> <p>8 <b>than in and those were my options -- I had</b></p> <p>9 <b>never had any other options -- I still had that</b></p> <p>10 <b>hope that the letter from the 29th may work</b></p> <p>11 <b>some magic and open further pathways. As it</b></p> <p>12 <b>happened, according to Mr Pyle, it even</b></p> <p>13 <b>narrowed them even further because the</b></p> <p>14 <b>government parties took real serious offence.</b></p> <p>15 <b>Like I say, there was no interest in the</b></p> <p>16 <b>alleged sabotage. The focus was "get rid of</b></p> <p>17 <b>the émigré". And that is my argument. Mr</b></p> <p>18 <b>Picardo, Mr Llamas, Mr Pyle were not</b></p> <p>19 <b>interested. I would have expected GPA to</b></p> <p>20 <b>have been more assertive.</b></p> <p>21 Q. Can we just focus on the 30th because we</p> <p>22 are running out of time?</p> <p>23 <b>A. I am sorry.</b></p> <p>24 Q. Just in a nutshell, your position is that --</p> <p>25 <b>A. I was hoping for the best, but planning</b></p> <p style="text-align: center;">Page 96</p>



<p>1 for the worst. So if I had to go, I wanted to 2 go with my head up high and in a dignified 3 way. And that is the bottom line if I had to 4 go. 5 Q. On what date did you make a firm 6 decision to seek early retirement? 7 A. Before I answer that, I think it was the 8 5th but before -- 5 June. But before I answer 9 that, it reminded me here, through messages 10 that were discussed during the previous two 11 witnesses, that I believe there is a message 12 from me to Mr Ullger on 1 June asking him 13 to do as much as possible on the HMIC 14 recommendations. That is not the message 15 from somebody who is certainly out. That is 16 a message from somebody who wants to 17 speed up and do things and still want to 18 remain in post. 19 Q. The government parties alleged that 20 nothing which happened after 29 May 2020 21 made any difference to your decision to 22 retire. Do you agree or disagree? 23 A. I disagree, because something happened. 24 The letter of the 29th went away, 25 challenging, making my representations to</p> <p style="text-align: center;">Page 97</p>	<p>1 corporate manslaughter, etc. I have really 2 had to assert myself here." Do you Recall 3 speaking to Mr Richardson that morning and 4 a mention of potential corporate 5 manslaughter? 6 A. I do not recall, but the message suggests 7 and I am not disputing that. I just want to 8 offer some context to that, if I may. When in 9 senior posts like the one that I held, I had 10 episodes or occasions to feel irritated and 11 evidently that is one of those moments where 12 I felt irritated about a view or an observation 13 that Mr Richardson had made which 14 obviously I was not happy with. And that is 15 the way I vented my irritation. I say that I 16 assert myself and I can give context to what 17 the message means in detail. 18 Q. Why were you irritated by -- 19 A. Because the circumstances had yet not 20 been established. We did not have evidence 21 to support any of that. But look, I respect the 22 gentleman as providing his views which I 23 thought were not warranted at the time and 24 this was going to be a matter -- I knew from 25 the outset that this was going to be a matter</p> <p style="text-align: center;">Page 99</p>
<p>1 the police authority. And that letter, I do not 2 know why, was shared with the government 3 parties. They responded to it with the 4 advantage of knowing what my arguments 5 were. And then the police authority saw 6 sense that the procedure had been wrongly 7 applied. They withdrew the invitation but 8 left the door open, wide open, for the worst 9 to happen. So again, if I was between a rock 10 and a hard place, there was the last sort of 11 stab in the back. 12 Q. Is it fair to say that after 29 May 2020, 13 your emphasis shifted to being allowed to 14 leave on the best possible financial terms? 15 A. Look, personal terms are very important 16 when you consider 36 years, long years of 17 service to the community, to the police. I 18 loved my job. I did not want to go. 19 A. Can we now move to E502, please? This 20 is the incident at sea. And I just want to look 21 at the top of the page, which is a message at, 22 I think, it is 9.05 in the morning. So shortly 23 after the incident. You say (Spanish) "I 24 swear I am going to hit somebody. Nolan and 25 Paul are already talking of potential</p> <p style="text-align: center;">Page 98</p>	<p>1 that was going to be dealt with independently 2 and we should not, or rather the RGP should 3 not be the ones that propose any views. I 4 mean any possible corporate manslaughter 5 would not have been missed by the 6 Metropolitan Police who came to investigate. 7 Let them or else there starts the question of 8 influencing an independent Inquiry or not. 9 And that is the irritation that I expressed. 10 Nothing more, nothing less. I would never 11 hit anybody, let alone Mr Richardson, who I 12 have developed a friendship after I retired. I 13 like Mr Ullger, he is of my age, was with me 14 in school and I have -- hold him in high 15 regard. So it is regrettable and I apologise 16 here for that language. But that is Mr 00 if I 17 can describe Mr Richardson, we used to -- in 18 Spanish and maybe you can translate it. We 19 used to call him (Spanish) which means that 20 he would perhaps over complete complicate 21 matters, and I prefer to have people around 22 me like that even if they sound irritating. 23 Because you do not want people -- "yes" 24 men around you. You need people to 25 challenge decisions and to think outside the</p> <p style="text-align: center;">Page 100</p>

25 (Pages 97 to 100)

<p>1 <b>box. And Mr Richardson was the perfect</b>  2 <b>example of somebody thinking outside the</b>  3 <b>box and came in very, very handy in the</b>  4 <b>command team. So I apologise to him.</b>  5 Q. Yes, I think we have got your answer.  6 Can we move now to a bit further down the  7 page at 9.49 which we believe is 10.49. You  8 say "Here with AG in my office. Collision  9 happens 6NM east of the airport La Linea  10 Beach." So you did refer there directly to the  11 collision rather than the incident. Is it fair to  12 say from this that that your position at the  13 time was that the collision had happened  14 outside Gibraltar waters?  15 <b>A. No, that is not a fair comment. That</b>  16 <b>message was sent in a dynamic situation and</b>  17 <b>it is probably incomplete and/or incorrect. It</b>  18 <b>was shortly after the incident. So we are still</b>  19 <b>talking about the critical moments of the</b>  20 <b>incident. And like I said, it was dynamic in</b>  21 <b>pace and dealing with many messaging. And</b>  22 <b>Mr Ullger was not even in Gibraltar then. So</b>  23 <b>that message is inaccurate insofar as it says</b>  24 <b>that it seems -- confirmed that the collision</b>  25 <b>happened at six nautical miles when at that</b></p> <p style="text-align: center;">Page 101</p>	<p>1 <b>comments vis leadership. We can fucking</b>  2 <b>produce a proper set of instructions." And</b>  3 <b>the response -- Mr Ullger's response is in</b>  4 <b>agreement effectively. Does this demonstrate</b>  5 <b>your disappointment with the Marine</b>  6 <b>section's standard operating procedures and</b>  7 <b>leadership?</b>  8 <b>A. Yes, and it is again another moment of</b>  9 <b>irritation as it is very, very evident of the</b>  10 <b>language and the tone.</b>  11 Q. You say that in the end HMIC is right.  12 Were you referring to where it had said in its  13 report that leadership development was an  14 area of improvement for the Force?  15 <b>A. I am glad that you have highlighted that.</b>  16 <b>That is exactly what I was referring to</b>  17 <b>because I could not... I have not had time to</b>  18 <b>cross refer a map. My reference to the</b>  19 <b>HMIC to the report. I have not had the</b>  20 <b>energy to do that. I am really happy that you</b>  21 <b>have mentioned that.</b>  22 Q. The reference for the Chairman's benefit  23 is B1552. Now can we go to E629, please?  24 On 21 April, you messaged Mr Ullger. This  25 is an exchange that we were discussing. We</p> <p style="text-align: center;">Page 103</p>
<p>1 <b>point it was not confirmed. So it was more</b>  2 <b>information or apparently or seems to have</b>  3 <b>happened rather than confirmed. And what is</b>  4 <b>missing from that message is also that at the</b>  5 <b>time we were working from the hypothesis</b>  6 <b>that there was a chase, a pursuit in British</b>  7 <b>territorial waters which happened to be not</b>  8 <b>the case. But at that time we were working</b>  9 <b>on that hypothesis. So no, I have not. I</b>  10 <b>could not provide. I could not have provided</b>  11 <b>him with this information as a confirmed</b>  12 <b>matter when I did not have it myself.</b>  13 Q. Can we now go to E5111? Sorry. E511?  14 Sorry Mr McGrail, I am hurrying a little bit.  15 <b>A. I am sorry. I will --</b>  16 <b>A. No, no. Do not apologise. But I am just</b>  17 <b>explaining why I am in a rush. Halfway...</b>  18 <b>Sorry. I think it is the second message there.</b>  19 <b>"I am so (Spanish). I am so angry. SOP the</b>  20 <b>Marine Section done by Brian F And Nolan</b>  21 <b>apparently . So, so shabby in presentation, in</b>  22 <b>blank paper, no letterhead, no author, no date.</b>  23 <b>Shambolic. Such basic things that even</b>  24 <b>probationer would not miss (Spanish) In the</b>  25 <b>end, HMIC (Spanish)is right on the negative</b></p> <p style="text-align: center;">Page 102</p>	<p>1 were discussing with Mr Ullger yesterday  2 about a hypothetical sudden death. And you  3 say: "(Spanish) sudden death el Paul  4 Richardson because he will say it is  5 involuntary manslaughter on my part." You  6 are basically saying: I do not want Mr  7 Richardson to investigate this because he will  8 say that it is involuntary manslaughter on my  9 part. And Mr Ullger replies: "(Spanish) We  10 are in a mess. You say the problem is he is  11 buddy buddy with the Stipe." Now this  12 seems to be relating back to the conversation  13 -- the exchange on 8 March, is that correct?  14 <b>A. No, Mr Ullger... I could not make head</b>  15 <b>or tails of it when it was brought to my notice</b>  16 <b>and I started looking at it.</b>  17 Q. We do not need to get into the  18 background?  19 <b>A. The thing is, I could not make head nor</b>  20 <b>tails of it until yesterday he has jogged my</b>  21 <b>memory. And this was... What I could make</b>  22 <b>out was certainly that the reference to the</b>  23 <b>sudden death and not to assign it to Mr</b>  24 <b>Richardson because he would come up with</b>  25 <b>this over complication was because the way I</b></p> <p style="text-align: center;">Page 104</p>

26 (Pages 101 to 104)

<p>1 read it was that it reeks of sarcasm, nasty 2 sarcasm on my part, which again I regret. 3 But it had nothing to do with the evidence, to 4 do with the collision at sea or in accordance 5 with what Mr Ullger has refreshed the 6 Inquiry and myself to. It had to do with 7 somebody, somebody who was challenging 8 the COVID regulations, was being a pain in 9 the backside basically, and did not let go. So 10 this has nothing whatsoever to do with the -- 11 Q. No, my question was whether the 12 reference to the involuntary manslaughter 13 was -- 14 A. Yes, yes -- 15 Q. -- harking back to the conversation? 16 A. Yes, because there was... I do not like 17 discussing this openly because it was to do 18 with a death is a situation in life that has to 19 be respected and should not be mocked. But 20 in this case it was that if this person 21 happened to take his own life because he was 22 desperate in the ways that he was coming 23 across, as in get a life, that Mr Richardson 24 would not be assigned or else he would be -- 25 I would be accused of causing that death, if</p> <p style="text-align: center;">Page 105</p>	<p>1 those deletions related to -- those deleted 2 messages related to? 3 A. Are those the ones that... Can we go 4 further up? Okay, so there... Yes. No, I 5 don't know what they are about but there are 6 other deletions and think there's another 7 deletions from Australia. 8 Q. The reason I am taking to these is 9 because they fall in April 2020. The others 10 do not seem quite so -- 11 A. Okay. 12 Q. -- relevant, Potentially relevant. I am not 13 suggesting that they are relevant or not. 14 A. No, I am sorry, I will not be able to assist 15 you there. I haven't... There's nothing 16 before or after, is there, that can direct me to 17 it, no. 18 Q. No, no, I do not think so. All right, well - 19 - 20 A. But that was way before the wheel came 21 off, basically, or rather than that all hell broke 22 loose. I can't see it is linked to... 23 Q. Yes. I am just going to turn to the HMIC 24 report, sir. I do not think it will take more 25 than 10 minutes, if I could have leave to just</p> <p style="text-align: center;">Page 107</p>
<p>1 you know what I mean. In the most sarcastic 2 and hypothetical and irrelevant tones it was -- 3 he described it as "banter", but I described it 4 as being fed up with the individual 5 concerned. 6 Q. Why did you say that Mr Richardson 7 was buddy buddy with the Stipe? 8 A. Because he is. Well, he is. Mr 9 Richardson had a very good relationship with 10 the stipendiary -- ex-stipendiary, and arising 11 from, I understand, previous engagements in 12 his professional line of work and they 13 developed a relationship which for me was 14 fine. I think both the stipendiary and Mr 15 Richardson knows what their boundaries are. 16 But that comment comes into play as in again 17 following from the sarcastic situation that Mr 18 Richardson will convince the Stipendiary that 19 I am guilty of involuntary manslaughter. 20 Q. Can I now move to 629? So at the 21 bottom of that page and the beginning of the 22 next page there is some -- there are four 23 deletions that I took Mr Ullger to yesterday. 24 It is the following day. It is not the follow on 25 from that conversation. Do you know what</p> <p style="text-align: center;">Page 106</p>	<p>1 take those 10 minutes. Thank you. It is 2 always easier making that request as CTI. 3 (To the witness) Can we now go to 495 4 please? This is 5 March 2020 where you say 5 you are discussing HMIC with Mr Ullger. 6 You say "HMIC (Spanish) battling against 7 Cathal and Paul. It's an uphill struggle for 8 me. Get your arse back." Just to translate 9 again. "HMIC is taking me through the 10 street of sorrow." And then Mr Ullger says: 11 "Yeah, I told you they were (Spanish) 12 pathetic about it. Not putting the importance 13 to it and saying that we are overreacting. 14 They don't see the damage it can do." Did 15 you agree with Mr Ullger that the HMIC 16 report could do damage? 17 A. This was again another moment of 18 irritation and it is obviously obvious that 19 those are the ones that are being flagged and 20 looked at it forensically, but it is another 21 moment of irritation. I think the bottom line 22 is that, yes, I was obviously bothered and 23 worried about the inspection report because it 24 was not a good one. I think everybody was, 25 but that is it. I was expecting work to be</p> <p style="text-align: center;">Page 108</p>

27 (Pages 105 to 108)

<p>1 <b>done, maybe, and it seems that Mr</b>  2 <b>Richardson, Mr Cathal were not receptive to</b>  3 <b>that. But at the same time, I understand that</b>  4 <b>they had already opposed the commissioning</b>  5 <b>of the report in the first place and I had</b>  6 <b>challenged it. Those are the dynamics of</b>  7 <b>working in a team. It is not all a bed of roses</b>  8 <b>always, and nothing sinister should be looked</b>  9 <b>at. I had my disagreements with them and</b>  10 <b>they had it with me.</b>  11 Q. Everybody gets irritated at work  12 sometimes. That is not what we are focusing  13 on. It is just your reaction to the report. That  14 is the point of my question. So I am just  15 going to move on.  16 <b>A. I think that my reaction to report is well</b>  17 <b>explained in my evidence already.</b>  18 Q. Yes. 497 is -- the top of the page 497 is  19 another similar message on 6 March where  20 you say -- sorry, the preceding page, actually,  21 Mr Ullger and you are discussing Paul  22 Holewell and Matt Parr and then you say in  23 the following page, "I hope so. (Spanish)  24 This has got me down. At least Joey agrees  25 with Hespero(?), but I do not think I can</p> <p style="text-align: center;">Page 109</p>	<p>1 <b>and the tone, I sensed again, I say, a bit of</b>  2 <b>weakness, that they would stand by the RGP</b>  3 <b>if we were bombarded with criticisms from</b>  4 <b>the quarters that I have mentioned.</b>  5 Q. Can we now go to E1102, please? This is  6 a voice note which you sent on 28 April 2020  7 where you are saying to Mr Ullger, "We are  8 going to have to explain why we never  9 worked on the other recommendations" and  10 we read this yesterday. I am not going to  11 read it all because of time constraints, but  12 how do you respond to the suggestion by the  13 government parties that you are seeking to  14 come up with explanations after the event for  15 the failure to meet HMIC requirements?  16 <b>A. Well, actually I do not know whether Mr</b>  17 <b>Ullger may have known at the time, but there</b>  18 <b>is correspondence disclosed before the</b>  19 <b>Inquiry where Mr Britto makes this request</b>  20 <b>from me and he says: try and provide me</b>  21 <b>with explanations as to why the</b>  22 <b>recommendations on the previous report</b>  23 <b>were not advanced. So, in the main I was</b>  24 <b>under a request from the GPA, but equally</b>  25 <b>given the date -- what date was this again,</b></p> <p style="text-align: center;">Page 111</p>
<p>1 count on his support if the wheel comes  2 completely off." What did you mean by the  3 wheel coming completely off?  4 <b>A. I was... We were riding a good time there</b>  5 <b>in terms of public opinion and public</b>  6 <b>exposure and to be fair, I was enjoying that</b>  7 <b>because it was very comforting. But there</b>  8 <b>were factors out there that were intent in</b>  9 <b>causing the harm in media terms, and I was</b>  10 <b>concerned that that was going to be used as a</b>  11 <b>weapon to hit at the RGP. There was a</b>  12 <b>constant -- there was a constant stream of</b>  13 <b>issues raised in certain sectors in the media.</b>  14 <b>I was also concerned that the good name that</b>  15 <b>we were brewing and the good contacts,</b>  16 <b>community contacts that we had, could be</b>  17 <b>affected and community expectations and</b>  18 <b>satisfaction of the service would be affected.</b>  19 <b>I was also concerned about the reaction the</b>  20 <b>political power and the governor were going</b>  21 <b>to have about the reports. Yes, I was</b>  22 <b>concerned about all that. So, public, political</b>  23 <b>power, Governor. And although the GPA, I</b>  24 <b>believe, were on side with me because they</b>  25 <b>were equally disappointed with the language</b></p> <p style="text-align: center;">Page 110</p>	<p>1 <b>you said, Mr Santos?</b>  2 Q. 28 April 2020.  3 <b>A. Okay, 28 April.</b>  4 Q. Yes.  5 <b>A. So that was definitely, definitely in</b>  6 <b>response and I have not been able to dig it</b>  7 <b>up, but there is correspondence or either by</b>  8 <b>email or by letter or by WhatsApp from Mr</b>  9 <b>Britto requesting me to provide him with</b>  10 <b>explanations as to why the previous</b>  11 <b>recommendations had not been advanced.</b>  12 <b>And that is the tone of my.... We are going to</b>  13 <b>have to explain it is in response to Mr</b>  14 <b>Britto's request.</b>  15 Q. E674. There is another text on 28 April  16 at the -- at 10.26 at the bottom.  17 <b>A. It may be worthwhile. I have just seen, I</b>  18 <b>have just seen --</b>  19 Q. Yes.  20 <b>A. I have just seen "Have you seen Joey's</b>  21 <b>email?" And it is on the same date.</b>  22 Q. In fairness to you, that message is just  23 before I think, or just after the voice notes.  24 <b>A. Exactly. It could well be... If we track</b>  25 <b>that down, it could be that the voicemail or</b></p> <p style="text-align: center;">Page 112</p>

28 (Pages 109 to 112)

<p>1 <b>voice message is linked to that email and if it</b>  2 <b>is what I think it is, it will confirm what I</b>  3 <b>have just said.</b>  4 Q. We will look into that. So then at the  5 bottom of that page -- "Just seen it." This is  6 from you too, Mr Ullger. "There are many  7 questions we can't answer as it was down to  8 Wowee". And the response: "Indeed, that is  9 what I was going to say. I will finish off later  10 today the roadmap and send it to you  11 electronically." Who is Wowee or what is  12 Wowee?  13 <b>A. That is a nickname for my predecessor.</b>  14 Q. I am being given a reference. D2319. I  15 do not know if that can be brought up on  16 screen, please. 2319. This is an email from  17 Dr Britto on the... It seems to be almost  18 contemporaneous with the message  19 exchanges we are just looking at at 10.23 in  20 the morning, referring to the HMIC report.  21 So, is that the email that you had in mind?  22 <b>A. Well, it says, "I look forward to receiving</b>  23 <b>the planning document as discussed." I seem</b>  24 <b>to think that there was a letter. I think that....</b>  25 <b>Now, this is refreshing my... I think there</b></p> <p style="text-align: center;">Page 113</p>	<p>1 working at it, but the more that is done on the  2 HMIC recommendations within the next  3 couple of weeks, the better." Why did you  4 say that?  5 <b>A. That was part of my thinking at the time</b>  6 <b>to deconflict any of the concerns that were</b>  7 <b>being levied at me and therefore suggesting</b>  8 <b>that within the next couple of weeks, if I can</b>  9 <b>sit down and provide mitigating</b>  10 <b>circumstances or reduce whatever tension</b>  11 <b>there was, that would have helped if we</b>  12 <b>could have advanced the recommendations as</b>  13 <b>I was requesting.</b>  14 Q. Thank you, Mr McGrail. I do not have  15 any further questions for you, but there will  16 be --  17 <b>A. I need to go to the gents very quickly.</b>  18 Q. We will certainly take a break. The only  19 thing I would query is whether perhaps the  20 alternative is to start at quarter to two. To  21 take lunch now and start at quarter to two. #  22 THE CHAIRMAN: Yes.  23 MR SANTOS: Thank you.  24 (12.42)  25 (The short adjournment)</p> <p style="text-align: center;">Page 115</p>
<p>1 <b>was an official letter from Mr Britto from the</b>  2 <b>police authority asking -- officially asking...</b>  3 Q. I mean, just being as fair as I can to you,  4 but while at the same time not wanting to  5 feed you, but if I just read out the first line,  6 "Gents. In addition, please ensure that  7 specific references are also made to the  8 reasons for the recommendations in the  9 previous HMIC report not being met."  10 <b>A. There you go. I seem to think that there</b>  11 <b>was also a letter, a formal letter that</b>  12 <b>followed.</b>  13 Q. Can we now turn to... Sorry, why did...  14 You were talking about your predecessor.  15 Why did you refer to your predecessor in that  16 exchange?  17 <b>A. Because obviously the previous report</b>  18 <b>had been during his time and we worked</b>  19 <b>under his instruction from there on until I</b>  20 <b>took over.</b>  21 Q. Then finally, E767, 1 June. This is a  22 message that you were referring to earlier, I  23 think. Final bottom page. Sorry, bottom of  24 the page, you to Mr Ullger, "I would ask a  25 big favour and I know you are already</p> <p style="text-align: center;">Page 114</p>	<p>1 (13.44)  2 QUESTIONED BY SIR PETER CARUANA  3 Q. Mr McGrail, I just want to start, if I may,  4 with a couple of things that you said this  5 morning. When my learned friend Mr Santos  6 was questioning you about the 29 May letter  7 and whether it meant that you had already  8 made up your mind and then put to you  9 something that I am going to put up on  10 screen in a moment. He showed you the 5  11 June message where you say, "Still not out of  12 the woods. I now pray that they do not  13 refuse my intention to retire already".  14 <b>A. I don't recall that being put to me.</b>  15 Q. Okay. So, do you remember expressing  16 to my learned friend the view that you still  17 had the hope on 5 June, or up to 5 June, that  18 there might still be some hope?  19 <b>A. Some room for de-conflicting the</b>  20 <b>situation.</b>  21 Q. Yes. You said specifically that the  22 Gibraltar Police Authority might withdraw  23 their request to retire, for example.  24 <b>A. That was an expectation, yes.</b>  25 Q. Yes. Well, can I take you to that. E784.</p> <p style="text-align: center;">Page 116</p>

29 (Pages 113 to 116)

<p>1 Line - row 2497 - 784/26/25. Sorry. Do 2 you see that message on 5 June at 17:13 in 3 the evening? 4 <b>A. Yes.</b> 5 Q. "I now pray that they do not refuse my 6 intention to retire early". 7 <b>A. Yes.</b> 8 Q. Had you forgotten, when you gave your 9 evidence this morning, that by then the 10 Gibraltar Police Authority had already 11 withdrawn their request for you to retire? 12 <b>A. I had certainly not forgotten that. But</b> 13 <b>there was an extremely grey area which I</b> 14 <b>explored spontaneously with the GPA</b> 15 <b>chairman back on 29 May, where I recall</b> 16 <b>asking him if the invitation -- if I were to</b> 17 <b>challenge the instruction to retire and it was</b> 18 <b>refused on the basis that the GPA still felt</b> 19 <b>that I had to leave, would I still be able to</b> 20 <b>leave voluntarily or would I be subjected to a</b> 21 <b>resignation call by the Governor, something</b> 22 <b>which the GPA chairman said he didn't</b> 23 <b>know. That is back on the 22 May meeting.</b> 24 <b>So, the grey area as to whether there could be</b> 25 <b>the positive side of the GPA withdrawing or</b></p> <p style="text-align: center;">Page 117</p>	<p>1 <b>of the GPA withdrawing is the key here,</b> 2 <b>because they are - that's where I say, that the</b> 3 <b>-- they were leaving the door open.</b> 4 Q. Right. 5 <b>A. And we queried -- we queried, in fact, we</b> 6 <b>queried, in response to that letter, my lawyers</b> 7 <b>wrote asking: well, what is going to happen</b> 8 <b>now?</b> 9 Q. Right, you -- 10 <b>A. And we didn't get any reply from the</b> 11 <b>GPA.</b> 12 <b>A. I see.</b> 13 <b>A. So, it was evident what was going to</b> 14 <b>happen.</b> 15 Q. Okay, I will not repeat it. After that, you 16 confirmed your intention to retire, but you 17 also said that you pointed out, indeed you 18 volunteered it -- you interrupted my learned 19 friend to volunteer it -- that you pointed out 20 to the fact that you wanted them to wait for 21 the new governor to arrive. How is that 22 consistent with also saying, "I now pray that 23 they do not refuse my intention to retire"? 24 How can you have two opposed intentions at 25 the same time? One, that they should do</p> <p style="text-align: center;">Page 119</p>
<p>1 <b>the GPA insisting, and if the GPA insisted,</b> 2 <b>could I still leave voluntarily, in terms of not</b> 3 <b>accepting my representations.</b> 4 Q. But how could you have harboured a 5 hope that the GPA -- how can you justify 6 your position that you still had hope on the 7 basis that the GPA would withdraw when 8 they had already withdrawn, and after they 9 had withdrawn, you still say, "I now pray that 10 they do not refuse my intention to retire 11 early", after the GPA had already withdrawn. 12 <b>A. Because the GPA had left the door open</b> 13 <b>for Mr Pyle to act, to invoke his powers.</b> 14 <b>And it could well be this is the dilemma I</b> 15 <b>was toying with. It could well be that I am</b> 16 <b>not allowed to retire because I have not -- the</b> 17 <b>process has been flawed.</b> 18 Q. I see. But this was the very time -- this 19 was the very day that your own lawyers had 20 written in to the GPA saying: we need to -- 21 we are going to -- thank you for withdrawing, 22 but we are going to -- we want to retire 23 anyway because we have been so unfairly 24 treated and all this unlawful interference. 25 <b>A. Yes, you are correct in that but the letter</b></p> <p style="text-align: center;">Page 118</p>	<p>1 nothing until the new governor arrives, and 2 secondly, that they should not refuse your 3 intention to retire. How are those two things 4 reconcilable? 5 <b>A. Well, as I said, this was a situation</b> 6 <b>evolving through my thought process on an</b> 7 <b>hourly basis, and the question of waiting for</b> 8 <b>the new governor had been proposed to Mr</b> 9 <b>Pyle, in fact, by both, I believe, my lawyers</b> 10 <b>and myself in person during one of my pre</b> 11 <b>meetings to that. So, I was exploring each</b> 12 <b>and every possible hope, strand, thread that I</b> 13 <b>could explore. But this was already having a</b> 14 <b>serious toll on me. I was, at the time, I was</b> 15 <b>not -- I was seriously affected. I was ill.</b> 16 Q. Yes, all right, Mr McGrail, we understand 17 that, but which was it? Were you hoping that 18 they would not stop you retiring? Or were 19 you hoping that they would do the sensible 20 thing and make no decision until the new 21 governor arrived? 22 <b>A. If playing for time worked toward my</b> 23 <b>advantage, that would have been a good</b> 24 <b>option for me.</b> 25 Q. Yes. Okay, could we look at E508?</p> <p style="text-align: center;">Page 120</p>

30 (Pages 117 to 120)

<p>1 When my learned friend questioned you this 2 morning about the loss of life in the incident 3 at sea and the Met investigation, you said that 4 the RGP should not be the one to propose 5 any views on the manslaughter question. 6 That is what you said. 7 <b>A. Based on not having any information to 8 support that.</b> 9 Q. Okay. This was an independent 10 investigation of the RGP. That was the tenor 11 of what you said. Can you look at this, row 12 1069. Starting at 1069, reading down from 13 there. "The Met are coming over for the 14 investigation." Mr Ullger to you. You to Mr 15 Ullger. "Yep, a team from the Professional 16 Standards SIF couldn't help..." If we could 17 carry on scrolling down, Mr Triay. I thank 18 you. Then there is a missing message there, 19 a body -- a body absent. Then, "I understand 20 they are doing their statements today, no?" Is 21 that a reference to the local witnesses? The 22 local police witnesses doing the statements 23 for the Met team that was coming? 24 <b>A. It would seem. It would appear. I would 25 agree with that.</b></p> <p style="text-align: center;">Page 121</p>	<p>1 did - "you" did not want it to go and your 2 determination that Mr Richardson should not 3 take them there. 4 <b>A. It is completely wrong to what you are 5 suggesting.</b> 6 Q. I see. 7 <b>A. I am talking this with my deputy. I am 8 not sharing this with the --</b> 9 Q. Okay. 10 <b>A. -- Metropolitan Police or with any 11 external party. I am talking --</b> 12 Q. I see. 13 <b>A. -- in confidence with my deputy 14 colleague.</b> 15 Q. Exactly. But do you not think that people 16 are most candid when they are -- think they 17 are in confidence? You heard yesterday the 18 evidence from the RGP that WhatsApps have 19 been exaggerated, the importance of them. 20 Would you agree with me that actually it is 21 the opposite of that? That when people think 22 they are speaking privately with their friends 23 in confidence, it is when they actually 24 articulate what they really think? 25 <b>A. On occasions it may be like that. On</b></p> <p style="text-align: center;">Page 123</p>
<p>1 Q. Yes. That is my reading of it. 2 <b>A. Yes. I agree.</b> 3 Q. I just wanted you to confirm it. 4 <b>A. I agree.</b> 5 Q. Then, "They are coming on Friday..." 6 You to Mr Ullger. "I intend to brief them on 7 the local context [and then you say] I am 8 concerned of PR, [presumably Mr 9 Richardson] steering it to where I do not 10 want it to go." What do you mean by that? 11 <b>A. Meant that this was the direction of 12 where the investigation needed to go had to 13 be determined by the independent team and 14 not by Mr Richardson.</b> 15 Q. To where "I", you, "do not want it to go". 16 <b>A. We are talking about the mooting of 17 involuntary manslaughter -- or corporate 18 rather -- corporate manslaughter. I don't 19 think any head of any organisation would 20 want the organisation to be --</b> 21 Q. How is your evidence this morning to my 22 learned friend that you did not think the RGP 23 should, quote, "...not be the ones to propose 24 any views..." be read consistently with you 25 having a view about whether -- where you</p> <p style="text-align: center;">Page 122</p>	<p>1 <b>occasions it might mean --</b> 2 Q. Yes. 3 <b>A. -- text can be completely misconstrued, 4 as has happened on many occasions. You 5 cannot expect a written communication to be 6 a substitution for a face-to-face where you 7 can articulate your arguments on what you 8 really mean in a far clearer fashion.</b> 9 Q. Okay. Mr McGrail, did you, at that time, 10 when you were still Commissioner of Police, 11 use Signal, Vibe or any other messaging 12 platform other than WhatsApps? 13 <b>A. Vibe? I don't know what that is.</b> 14 Q. Sorry? Oh. I am told it is pronounced 15 Viber. Sorry, you and I appear to be as old 16 fashioned as each other about these things. 17 <b>A. No. No. Not --</b> 18 Q. Sorry? 19 <b>A. Not that I can think. WhatsApp was the -</b> 20 - 21 Q. The only one. 22 <b>A. That I can think. Maybe Messenger. 23 Messenger, you know, that is linked to the 24 Facebook perhaps.</b> 25 Q. Only that you can think of. Signal?</p> <p style="text-align: center;">Page 124</p>

<p>1 Signal?</p> <p>2 <b>A. I can't think. I think Signal came in later</b></p> <p>3 <b>after I left, I think.</b></p> <p>4 Q. Did you use any other messaging service</p> <p>5 other than WhatsApp?</p> <p>6 <b>A. I can't think I did, no.</b></p> <p>7 Q. You cannot remember or you do not think</p> <p>8 you did?</p> <p>9 <b>A. I don't think I did. I don't think I did.</b></p> <p>10 Q. But you are not sure?</p> <p>11 <b>A. In relation to police work?</b></p> <p>12 Q. Yes.</p> <p>13 <b>A. Certainly I would not have used --</b></p> <p>14 Q. Okay. Okay.</p> <p>15 <b>A. If maybe a simple iMessage which is the</b></p> <p>16 <b>facility from --</b></p> <p>17 Q. Okay.</p> <p>18 <b>A. -- iPhone. But even that I think --</b></p> <p>19 Q. So, your answer is that you do not think</p> <p>20 so. That is okay.</p> <p>21 <b>A. But --</b></p> <p>22 Q. You are --</p> <p>23 <b>A. No, the thing is, if I did, it would show in</b></p> <p>24 <b>the forensic examination of my phone.</b></p> <p>25 Q. No. If you did, you should have</p> <p style="text-align: center;">Page 125</p>	<p>1 Q. Yes. Okay.</p> <p>2 <b>A. -- there is no relevance of producing</b></p> <p>3 <b>other notes that are not relevant.</b></p> <p>4 Q. Okay, well, there is no - it may not be</p> <p>5 any relevance to you, but I understand. Now,</p> <p>6 this morning you asked question -- you --</p> <p>7 well, you volunteered. You said that you had</p> <p>8 been unable to discharge your duty. Did you</p> <p>9 say it? Do you remember saying that? That</p> <p>10 you had tried but you were unable to do it?</p> <p>11 <b>A. I was coming to the realisation that it was</b></p> <p>12 <b>not possible to discharge my function. I was</b></p> <p>13 <b>coming to --</b></p> <p>14 Q. Because of your -- the breakdown of your</p> <p>15 relationship with key people.</p> <p>16 <b>A. Well, it's not that. It's worse than that. It</b></p> <p>17 <b>is that you are investigating, like I said, a</b></p> <p>18 <b>serious allegation affecting National Security.</b></p> <p>19 <b>Where you expect the powers that be to be</b></p> <p>20 <b>supportive of that. Mainly because they</b></p> <p>21 <b>should be also safeguarding National</b></p> <p>22 <b>Security, and when they side up with the</b></p> <p>23 <b>suspects, they tip off the suspects -- which at</b></p> <p>24 <b>the time I didn't know, but it is now evident -</b></p> <p>25 <b>- you are thinking, how can I fulfill my</b></p> <p style="text-align: center;">Page 127</p>
<p>1 disclosed them. That is my point.</p> <p>2 <b>A. I agreed(sic).</b></p> <p>3 Q. Okay. Now you said that when you left</p> <p>4 the Force you left your daybooks in a</p> <p>5 rucksack, I think you said, in your office.</p> <p>6 <b>A. That is covered in my --</b></p> <p>7 Q. Can you just, just for the record, confirm</p> <p>8 to us whether that was your day books for</p> <p>9 your entire career or just for a limited period</p> <p>10 of time?</p> <p>11 <b>A. No, they would not have been for my</b></p> <p>12 <b>entire career. They would have probably</b></p> <p>13 <b>been from my senior management days.</b></p> <p>14 Q. Your entire senior management days --</p> <p>15 daybooks have been lost, have they?</p> <p>16 <b>A. I do not know. I left them behind.</b></p> <p>17 THE CHAIRMAN: We have copies of three</p> <p>18 pages.</p> <p>19 SIR PETER CARUANA: You do so, sir.</p> <p>20 You do have copies of three pages. Not</p> <p>21 much to show for an entire career of service</p> <p>22 of day books.</p> <p>23 <b>A. Well, the notes that have been presented</b></p> <p>24 <b>here for the Inquiry are the ones that are</b></p> <p>25 <b>pertinent to the Inquiry and --</b></p> <p style="text-align: center;">Page 126</p>	<p>1 <b>obligations and in that same pot, who do I</b></p> <p>2 <b>turn to? Who --</b></p> <p>3 Q. But you were not the investigating</p> <p>4 officer, were you? Mr Richardson was able</p> <p>5 to continue and brought the matter to</p> <p>6 prosecution.</p> <p>7 <b>A. Indeed, and it was --</b></p> <p>8 Q. So why, what duty were you prevented</p> <p>9 from carrying out by anybody?</p> <p>10 <b>A. I think --</b></p> <p>11 Q. In relation to this Operation Delhi.</p> <p>12 <b>A. In my opinion, it was -- if the head of an</b></p> <p>13 <b>organisation, like in that case myself, was</b></p> <p>14 <b>scalped, that would send some shockwave</b></p> <p>15 <b>down the line where who would dare put</b></p> <p>16 <b>their head over the parapet and pursue it in</b></p> <p>17 <b>the way that it was being pursued when I was</b></p> <p>18 <b>in office? That is my -- you have asked my</b></p> <p>19 <b>opinion. That is mine and --</b></p> <p>20 Q. That is your speculative view.</p> <p>21 <b>A. My - from --</b></p> <p>22 Q. And if you thought as a Commissioner of</p> <p>23 Police, that a politician -- or anybody for that</p> <p>24 matter -- was unlawfully interfering with</p> <p>25 your operational independence, is that a</p> <p style="text-align: center;">Page 128</p>

32 (Pages 125 to 128)



<p>1 reason for you to retire or to stand up and 2 defend the Police's independence? Why was 3 that a cause to retire, even if it happened? 4 <b>A. It was -- I did -- it was not a cause for 5 retiring, it was -- the situation --</b> 6 Q. Exactly. 7 <b>A. No, no, let me explain. It was a 8 consequential effect to what had happened -- 9 to the instruction to retire on the back of the 10 12 May incident. So that was, you are -- I 11 think you are conflating two issues. I could 12 not, I had no option, but added to that was 13 the realisation, the added realisation that I 14 had nobody to turn to in terms of upholding 15 the rule of law.</b> 16 Q. Okay. Mr McGrail, are you prone to 17 making wild and unsubstantiated allegations 18 against important people? 19 <b>A. What do you mean by prone?</b> 20 Q. Do you have a tendency to do that? 21 <b>A. Not that I know of.</b> 22 Q. No. Well, this morning you mentioned, 23 for example, that this government -- you 24 know how this government operates, that 25 they just chop people's head off, or words to</p> <p style="text-align: center;">Page 129</p>	<p>1 <b>were taken away from their --</b> 2 Q. But you would demonstrate - you -- the 3 list -- you used the list to demonstrate that 4 they just disposed of people that they didn't 5 like. 6 <b>A. For whatever the reasons, yes.</b> 7 Q. But they did not dispose of him. Whether 8 they liked him or not, I do not mind -- I do 9 not know. But they did not dispose of him. 10 Okay. I will -- 11 THE CHAIRMAN: You have to give him a 12 chance to answer your allegation. 13 SIR PETER CARUANA: Right. Okay, so 14 you - sir, you are absolutely -- 15 THE CHAIRMAN: Rather than doing so 16 yourself. 17 SIR PETER CARUANA: I am sorry. Thank 18 you. Okay. (To the witness) Mr McGrail. 19 Just to save time, you have given us an 20 explanation this morning as to why you had 21 not disclosed, you apologised, you said that 22 you had not thought it relevant. The 23 WhatsApp chats with your colleagues, etc, 24 etc. Do you remember that evidence that you 25 gave to my learned friend?</p> <p style="text-align: center;">Page 131</p>
<p>1 that effect. You did not use the words "chops 2 people's head off". They get rid of people -- 3 and you mentioned, as an example, the Chief 4 Executive Officer of the Borders and Coast 5 Guard Agency. Are you aware that that 6 person was simply transferred from one 7 government area to the other, that from there 8 he went to very senior positions in the 9 Gibraltar Health Authority, and from there 10 was then further transferred to the GIFU, 11 which is Gibraltar's Financial Intelligence 12 unit that works closely with the police? 13 <b>A. I am fully aware of that. What I qualified 14 --</b> 15 Q. So -- 16 <b>A. What I qualified was that these -- some of 17 these people that left that had their, for want 18 of your, using your expression, heads 19 chopped off, were far more fortunate than I 20 was and they remained in employment. Not 21 their --</b> 22 Q. So they never had -- 23 <b>A. -- employment --</b> 24 Q. -- their heads chopped off then. 25 <b>A. -- not their employment of choice. They</b></p> <p style="text-align: center;">Page 130</p>	<p>1 <b>A. Yes.</b> 2 Q. Okay, so can we turn -- I do not know if 3 Mr Triay, you can put A173 on the screen. It 4 is from the previous. 5 MR TRIAY: Yes. 6 SIR PETER CARUANA: This was the 7 explanations that you had given as to why 8 you had not disclosed any WhatsApps of 9 your colleagues. You had not focused on 10 them, had not thought that they would be 11 relevant. Would you like to just look at -- 12 sorry, can you -- to 152, Mr Triay. Could 13 you scroll down at paragraph 152. "All my 14 correspondence with officials and colleagues 15 regarding my dealings with the Gibraltar 16 Police Federation have been disclosed to the 17 Inquiry." That is not true, is it? Because 18 your chat with Mr Ullger that you did not 19 disclose to the Inquiry contained many 20 messages about your dealings with the Police 21 Federation. Is that correct? 22 <b>A. Is this my first affidavit or?</b> 23 Q. Does it matter? 24 <b>A. Well, it does, because if the -- if the -- I 25 can't remember what affidavit it is.</b></p> <p style="text-align: center;">Page 132</p>

<p>1 Q. I am told it is the fifth.</p> <p>2 <b>A. Oh, okay. So, I think I have covered, and</b></p> <p>3 <b>I am ready to cover it again, that the</b></p> <p>4 <b>exchanges on WhatsApps did not feature in</b></p> <p>5 <b>my mind as to include in my evidence, and</b></p> <p>6 <b>less so after the devices were taken from me.</b></p> <p>7 Q. I see.</p> <p>8 <b>A. So, I cannot and I wish I could, but I</b></p> <p>9 <b>cannot elaborate further than that and so I am</b></p> <p>10 <b>obviously referring to the material that I</b></p> <p>11 <b>disclosed, which mainly consisted of emails</b></p> <p>12 <b>and -- emails mainly.</b></p> <p>13 Q. WhatsApps are a form of</p> <p>14 correspondence, are they? Are they not?</p> <p>15 Communications?</p> <p>16 <b>A. I was - yes --</b></p> <p>17 Q. Does not this show - does this not --</p> <p>18 sorry, you are saying, yes. Does this not</p> <p>19 show that you were conscious of the</p> <p>20 relevance of correspondence with your</p> <p>21 colleagues?</p> <p>22 <b>A. I was not focused on those WhatsApps.</b></p> <p>23 Q. Was this not an opportunity for you to</p> <p>24 overcome your oversight? I mean, after all,</p> <p>25 if you had focused on disclosing, on thinking</p> <p style="text-align: center;">Page 133</p>	<p>1 messages were relevant?</p> <p>2 <b>A. Because I am not perfect, and the</b></p> <p>3 <b>situation surrounding -- which I have not</b></p> <p>4 <b>even touched upon and I am happy to</b></p> <p>5 <b>explain.</b></p> <p>6 Q. No. Well, I --</p> <p>7 <b>A. You do not want me to explain?</b></p> <p>8 Q. Well, I cannot. The answer is: why a man</p> <p>9 of your experience would overlook the</p> <p>10 relevance of this.</p> <p>11 <b>A. Because there are peripheral, serious</b></p> <p>12 <b>circumstances, aside from the ones that I</b></p> <p>13 <b>have explained, which greatly affected my</b></p> <p>14 <b>ability to focus more than what I have done.</b></p> <p>15 Q. Right.</p> <p>16 <b>A. And I have, like I say, dedicated my life</b></p> <p>17 <b>and soul to this Inquiry.</b></p> <p>18 Q. You, Mr McGrail, have provided seven</p> <p>19 witness statements --</p> <p>20 <b>A. Ten.</b></p> <p>21 Q. -- before the hearing. Just please let me</p> <p>22 finish the question -- before the hearing.</p> <p>23 Why did you not ever make a single</p> <p>24 reference to the fact that you had WhatsApp</p> <p>25 messages with Mr Ullger?</p> <p style="text-align: center;">Page 135</p>
<p>1 that you had disclosed, which of course you</p> <p>2 had not, WhatsApps with colleagues about</p> <p>3 Gibraltar Police Federation. Why not about</p> <p>4 all the other issues?</p> <p>5 <b>A. I wish I had. I wish the penny had</b></p> <p>6 <b>dropped --</b></p> <p>7 Q. I see.</p> <p>8 <b>A. -- and I regret that it hasn't.</b></p> <p>9 Q. But it did drop there. That is my point.</p> <p>10 <b>A. No, no, I have clarified that it did not. If</b></p> <p>11 <b>it had, the messages would have been before</b></p> <p>12 <b>the Inquiry at the time. That is --</b></p> <p>13 Q. Mr Ullger --</p> <p>14 <b>A. -- that is for certain.</b></p> <p>15 Q. I beg your pardon, Mr McGrail. Mr</p> <p>16 McGrail, I beg your pardon. You were the</p> <p>17 most senior police officer in Gibraltar at the</p> <p>18 time. Correct?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. You had been the most senior detective in</p> <p>21 Gibraltar as head of the Crime squad -- the</p> <p>22 Crime Division. Correct?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. How is it possible that a man of your</p> <p>25 experience did not think that some of these</p> <p style="text-align: center;">Page 134</p>	<p>1 <b>A. Because --</b></p> <p>2 Q. All --</p> <p>3 <b>A. -- by the time --</b></p> <p>4 Q. Yes, please.</p> <p>5 <b>A. Because by the time I was evolving -- my</b></p> <p>6 <b>evidence was evolving, and the statements</b></p> <p>7 <b>will see for themselves -- there is no specific</b></p> <p>8 <b>reliance on any of those messages. And I,</b></p> <p>9 <b>again, repeat my apology --</b></p> <p>10 Q. No.</p> <p>11 <b>A. -- because even though I am not relying</b></p> <p>12 <b>on any of them for my evidence, I am acutely</b></p> <p>13 <b>aware, and I am suffering that consequence</b></p> <p>14 <b>now, that they should have been disclosed,</b></p> <p>15 <b>even if they did not feature in my evidence.</b></p> <p>16 Q. Yes, nor to anything that ever transpired</p> <p>17 between -- never mind the WhatsApps</p> <p>18 themselves. You must have known that you</p> <p>19 had had these interactions with Mr Ullger.</p> <p>20 Not only did you not disclose the</p> <p>21 WhatsApps, but you never alluded to any of</p> <p>22 those in your voluminous witness statements.</p> <p>23 They are completely silent on any of the</p> <p>24 matters and attitudes and conversations and</p> <p>25 developments that you discussed in those</p> <p style="text-align: center;">Page 136</p>

<p>1    WhatsApps with Mr Ullger. 2    <b>A. I do not think so. I think that --</b> 3    Q. All right, you do not think so. Okay. 4    <b>A. Can I --</b> 5    Q. Well, if you do not think so, that is your 6    answer. Thank you. 7    <b>A. Yes, but I --</b> 8    Q. You do not think that they are absent? 9    <b>A. No. Because the general tenor of my</b> 10   <b>evidence incorporates all those concerns and</b> 11   <b>challenges I was facing at the time --</b> 12   Q. And -- 13   <b>A. Perhaps not verbatim on any way, shape</b> 14   <b>or form, but you can draw correlations to the</b> 15   <b>substance of those messages with what the</b> 16   <b>tenor of my issues were.</b> 17   Q. Why have you never given to this 18   Inquiry, the explanation before your 9th 19   witness statement on 2 December? Did the 20   thought that you -- that these WhatsApps 21   existed, never occur to you throughout all the 22   hearings? 23   <b>A. I am - I am going to be as bluntly honest</b> 24   <b>as I can.</b> 25   Q. Well.</p> <p style="text-align: center;">Page 137</p>	<p>1    witness) So, did you ask the RGP to provide 2    you with an explanation of the fact that you 3    could no longer access your WhatsApps 4    later? 5    <b>A. I think I have answered that to Mr Santos.</b> 6    Q. You did not. You did not. No. 7    <b>A. Sorry?</b> 8    Q. You did or you did not? 9    <b>A. What I am saying is I answered that</b> 10   <b>question to Mr Santos and it was that I did</b> 11   <b>not consider it.</b> 12   Q. Yes. 13   <b>A. I did not want to get anywhere the RGP --</b> 14   Q. Exactly. So, you did not. The answer is 15   no, I did not. 16   <b>A. But not even consider it.</b> 17   Q. No. 18   <b>A. Because it is a different --</b> 19   Q. Did you ask the RGP to provide you with 20   a copy? Because after all, you said this 21   morning that you knew that they would have 22   taken a copy of it. You took solace in it, you 23   say. Why did you not ask them to provide 24   you with a copy so that you could disclose it? 25   <b>A. I did.</b></p> <p style="text-align: center;">Page 139</p>
<p>1    <b>A. I have sat through those hearings for the</b> 2    <b>five weeks that they were held. I have given</b> 3    <b>evidence, I have been cross-examined.</b> 4    Q. Yes. 5    <b>A. And it did not -- and I know, and I know</b> 6    <b>that my team, as indeed other counsels here,</b> 7    <b>have challenged the other parties on</b> 8    <b>WhatsApps --</b> 9    Q. Okay -- 10   <b>A. Let me explain. I have been so absorbed</b> 11   <b>by that evidence that it has completely --</b> 12   Q. Okay. 13   <b>A. -- not detracted me from focusing on</b> 14   <b>mine.</b> 15   Q. So, this is your over busyness answer. 16   Okay, but that is short. If you could use that 17   for shorthand, just to save time. Otherwise 18   we hear it repeatedly. 19   MR WAGNER: I am sorry, but that - is 20   there a question? Or is -- 21   SIR PETER CARUANA: No, no, no. It is 22   just that the over busyness -- 23   THE CHAIRMAN: It is an observation 24   which I have ignored. 25   SIR PETER CARUANA: Okay. (To the</p> <p style="text-align: center;">Page 138</p>	<p>1    Q. When? 2    <b>A. When I was required to do so by the STI,</b> 3    <b>I --</b> 4    Q. You were required in April 2022. 5    <b>A. What - I don't understand --</b> 6    Q. Why did you not -- why did you not ask 7    the RGP when you tried, when you realised 8    that your phone no longer contained them, 9    when it was given back to you, why did you 10   not then say to the RGP: but please give me 11   a copy so that I can disclose them? 12   <b>A. Because they still did not feature the time</b> 13   <b>that they -- the time, the period that the</b> 14   <b>penny drops is when yourself, through STI,</b> 15   <b>raised the matter, and that is when it all</b> 16   <b>comes down on me.</b> 17   Q. So throughout -- until June 2024, you sat 18   through the Inquiry hearings, you heard all 19   the relevance of WhatsApps and all the 20   issues in the Inquiry. At no stage did the 21   thought cross through your mind that these 22   WhatsApps with your colleagues might be 23   relevant. Is that your evidence? 24   <b>A. Indeed, it is.</b> 25   Q. I see.</p> <p style="text-align: center;">Page 140</p>

35 (Pages 137 to 140)

<p>1 <b>A. Nothing prompted me directly or else,</b> 2 <b>like I said, I would have raised it.</b> 3 Q. Okay. You do -- do you agree that you 4 had a continuing obligation to make 5 disclosure to the Inquiry? 6 <b>A. Yes, I did.</b> 7 Q. Well, why did you not say to the Inquiry: 8 look, I have got these WhatsApps, or is it the 9 same answer because you thought that they 10 were irrelevant? Why did you not say to the 11 Inquiry: look, I am sorry, I know these 12 WhatsApps exist, but I just cannot get at 13 them because wretched RGP has lost access 14 to them, but they are there, ask them whether 15 they can do anything about it. 16 <b>A. I wish that had been the case, but it was</b> 17 <b>not. It did not dawn on me that I had to rely</b> 18 <b>on those messages, and I deeply regret it. I</b> 19 <b>cannot emphasize that again.</b> 20 Q. I see. 21 Q. Was your phone seized in the execution 22 of a search warrant? 23 <b>A. Yes.</b> 24 Q. Do you recall whether the Operation 25 Delhi emails and WhatsApps from</p> <p style="text-align: center;">Page 141</p>	<p>1 SIR PETER CARUANA: Of course. 2 THE CHAIRMAN: -- and be 3 unobjectionable. 4 SIR PETER CARUANA: Did you instruct, 5 or permit, your legal team -- why did you not 6 stop your legal team -- 7 THE CHAIRMAN: That is better. 8 SIR PETER CARUANA: -- from launching 9 the attacks on people for not doing, 10 according to you, what you yourself have not 11 done? 12 <b>A. Because at the time that my team were</b> 13 <b>addressing those matters with the other</b> 14 <b>witnesses, it still had not dawned on me that</b> 15 <b>my WhatsApp messages were not before the</b> 16 <b>Inquiry. Hence why we are here now. My</b> 17 <b>messages are here now, and now we are</b> 18 <b>going through that. But like I said, again, it</b> 19 <b>is my responsibility, not theirs. But I was not</b> 20 <b>prompted by anything or anybody to be able</b> 21 <b>to correct that oversight that had occurred.</b> 22 Q. I see. Well, now that you do know the 23 truth, do you now have some regret that that 24 happened? 25 <b>A. Absolutely.</b></p> <p style="text-align: center;">Page 143</p>
<p>1 defendants there, were seized in the 2 execution of a search warrant? 3 <b>A. I presume so, yes.</b> 4 Q. So, all the emails before the Inquiry in 5 connection with criminal investigations were 6 pursuant to a search warrant. Your and 7 theirs. 8 <b>A. Yes. There may be a distinction that one</b> 9 <b>prosecution was discontinued and --</b> 10 Q. It had not been discontinued. 11 <b>A. I don't know. I mean, I am just trying to</b> 12 <b>help. Whilst the other one perhaps was not.</b> 13 Q. Okay. Why did you instruct, or permit, 14 your legal team to launch an attack on the 15 Chief Minister, the Attorney General and 16 other witnesses for not disclosing closing 17 WhatsApps when you knew all along that 18 you yourself had not done so? 19 MR WAGNER: I am sorry, but that is 20 privilege -- a question of privilege, is it not? 21 His instructions to his legal -- 22 SIR PETER CARUANA: All right. I - 23 really -- 24 THE CHAIRMAN: I think the question 25 could be rephrased --</p> <p style="text-align: center;">Page 142</p>	<p>1 Q. You agree -- 2 <b>A. I'm sorry, regret of what?</b> 3 Q. That you launched this attack on others 4 for what you now know you were doing 5 yourself. 6 <b>A. No. I feel that my team have been</b> 7 <b>looking after my interests, and that is what</b> 8 <b>their task is. Whether it is not a question of</b> 9 <b>regretting or not. They are there to safeguard</b> 10 <b>my interests, and if my interests were to</b> 11 <b>approach this matter in the way -- what I can</b> 12 <b>tell you, if it is a question of even being</b> 13 <b>suggested, there is no deviousness, certainly</b> 14 <b>not on my part. And I can vouch --</b> 15 Q. I am asking you whether you now, now 16 regret it, Mr McGrail? 17 <b>A. I don't. I don't, because my team has</b> 18 <b>also worked --</b> 19 Q. No, never mind your team. You. Do you 20 -- 21 THE CHAIRMAN: You have got to let him 22 finish. 23 (14.14) 24 SIR PETER CARUANA: Yes, but he should 25 be answering the question, not some other</p> <p style="text-align: center;">Page 144</p>

<p>1 question. (To the witness) I am not attacking 2 your legal team, it would be quite improper 3 for me to do so; I am asking you whether you 4 personally regret it. 5 <b>A. I don't, because I'm glad that they've 6 been able to expose tho-- the issues that they 7 did.</b> 8 Q. But you do not know that Mr Levy, and 9 Mr Baglietto, and everybody else, had 10 messages that were not disclosed; those 11 attacks were made on supposition. You know 12 for certain that you did not -- now, you know 13 for certain that you did not, and you still do 14 not regret it? 15 <b>A. Well, I'm here answering the questions, 16 to the same scrutiny -- well, probably more 17 scrutiny than what Mr Levy and Mr Baglietto 18 were -- were subjected to, so...</b> 19 Q. Okay. 20 <b>A. Albeit it's a different hearing, but I am 21 being put the same -- even more scrutiny, I 22 must say.</b> 23 Q. I see. So, your evidence is: you never 24 thought that the RGP's -- your 25 communications were relevant. That is you</p> <p style="text-align: center;">Page 145</p>	<p>1 WhatsApps with your colleagues? 2 <b>A. Not to the same extent, because --</b> 3 Q. No, of course not. 4 <b>A. -- my messages have not disappeared or 5 vanished or been deleted or lost, my 6 messages are here. Completely different.</b> 7 Q. Mr Wagner put the following questions to 8 Mr Llamas. "Did you check your emails and 9 messages before drafting your witness 10 statements? And also, would you go through 11 all your text and emails before you are giving 12 evidence? Is this right?", he asks. 13 <b>A. I'm not doubting --</b> 14 Q. Did you do it, with your RGP messages? 15 <b>A. No.</b> 16 Q. No. And then much more recently, in 17 July of 2024, it was put that Hassans should 18 not be allowed to make representations to 19 this tribunal because there had been a lack of 20 openness on their part, because they did not 21 provide WhatsApps and things until too late 22 in the inquiry process. Do you think that 23 applies to you, too? 24 MR WAGNER: That is just not accurate, so 25 (?) if you want to put something, please read</p> <p style="text-align: center;">Page 147</p>
<p>1 central... Can I remind you that you did not 2 think they were relevant at the time? This is 3 why you never focused on -- exactly. (?) 4 <b>A. I didn't -- I didn't have to rely on them. 5 They're clearly --</b> 6 Q. Well, it is not reliance, it is relevance. 7 Okay. 8 THE CHAIRMAN: Yes, but I think he may 9 have confused the two. 10 <b>A. I --</b> 11 SIR PETER CARUANA: He is a very 12 senior detective... Well, that is for you to 13 make that (?) decision, sir, not me. (To the 14 witness) Mr McGrail, do you recall -- you 15 were sitting behind him at the time -- Mr 16 Wagner on your behalf putting to Mr Picardo, 17 the Chief Minister, that he had "quite a 18 narrow understanding of relevance and scope 19 when it comes to messages". 20 <b>A. I'm not going to dispute it --</b> 21 Q. No. 22 <b>A. -- if you're quoting it --</b> 23 Q. Do you think that comment applies to 24 you as well, given the view that you took of 25 the unimportance and irrelevance of your</p> <p style="text-align: center;">Page 146</p>	<p>1 out something -- 2 SIR PETER CARUANA: Yes. 3 MR WAGNER: -- from a statement if you 4 have a submission to make. 5 Q. Do you recall Mr Wagner making an 6 argument in writing, on your behalf, that it 7 was relevant to the commissioner's 8 consideration of Hassans' request to make 9 written submissions, and characterised as 10 lack of openness the fact that they had not 11 volunteered information until "much later in 12 the inquiry process". Are you aware that that 13 submission was made on your behalf? 14 <b>A. I am not doubting it.</b> 15 Q. No. Do you agree that you and your 16 lawyers could not credibly have made the 17 attacks that you have made if it had then been 18 known to us all that you yourself had not 19 disclosed WhatsApps? 20 <b>A. Well, they could have pursued their --</b> 21 Q. Yes. 22 <b>A. -- their approach approach on the back of. 23 Sorry, if I had presented the -- the disclosure, 24 then there would have been -- they would 25 have carried on with -- with the same</b></p> <p style="text-align: center;">Page 148</p>

<p>1 <b>approach, so I don't understand your point.</b></p> <p>2 Q. Would it be fair to say, Mr McGrail, that</p> <p>3 when it suited you, you went to unusual</p> <p>4 lengths to obtain and retain evidence yourself</p> <p>5 to protect it from loss?</p> <p>6 <b>A. No. All this --</b></p> <p>7 Q. No?</p> <p>8 <b>A. -- has not been suiting.</b></p> <p>9 Q. I see.</p> <p>10 <b>A. On -- quite the con--</b></p> <p>11 Q. Well, for example, you --</p> <p>12 <b>A. -- quite the contrary, it's been a serious</b></p> <p>13 <b>inconvenience.</b></p> <p>14 Q. I see. Well, you say that the covert</p> <p>15 recordings were so that it would not be lost.</p> <p>16 You have told us that you took the documents</p> <p>17 from Operation Delhi so that they would not</p> <p>18 be lost. You exported all your WhatsApps</p> <p>19 with other key players, except the RGP. You</p> <p>20 asked Mr Yeats to copy all your emails. Why</p> <p>21 did you not have the same concern to export</p> <p>22 your WhatsApp with your colleagues on your</p> <p>23 work phones?</p> <p>24 <b>A. I have already answered that question.</b></p> <p>25 Q. Okay. Were you not concerned that they</p> <p style="text-align: center;">Page 149</p>	<p>1 Q. Exactly. Whether you simply walked out</p> <p>2 of the police station on the day that you</p> <p>3 retired, put your phone on the table, your</p> <p>4 police phone, not caring whether all the</p> <p>5 WhatsApps on it were lost or not.</p> <p>6 <b>A. That -- the -- the way I have to answer</b></p> <p>7 <b>that question is that the question of caring or</b></p> <p>8 <b>not caring did not cross my mind at the time.</b></p> <p>9 <b>I was leaving --</b></p> <p>10 Q. But nevertheless, that is what you did.</p> <p>11 <b>A. I was leaving the -- my -- the post of the</b></p> <p>12 <b>job I loved in a haste, under the most difficult</b></p> <p>13 <b>of situations. And to oversimplify it and --</b></p> <p>14 <b>and just bring it down to this particular item,</b></p> <p>15 <b>I don't agree with.</b></p> <p>16 Q. Why would you be concerned to get</p> <p>17 copies of emails that cannot be lost because</p> <p>18 they are saved on the server, and not care</p> <p>19 about losing WhatsApps that are not on the</p> <p>20 server --</p> <p>21 <b>A. It's -- it's a valid --</b></p> <p>22 Q. -- and would be lost?</p> <p>23 <b>A. It is a valid point, but the fact is that I</b></p> <p>24 <b>only asked for the backing-up of my emails</b></p> <p>25 <b>and reports. It did not occur to me that the</b></p> <p style="text-align: center;">Page 151</p>
<p>1 might be lost?</p> <p>2 <b>A. They were in my possession. I didn't</b></p> <p>3 <b>think --</b></p> <p>4 Q. Not the ones on your work phone. Not</p> <p>5 the ones on the one you left in your office, in</p> <p>6 the Samsung. In the --</p> <p>7 <b>A. Indeed.</b></p> <p>8 Q. -- work phone.</p> <p>9 <b>A. Indeed. There, it wasn't --</b></p> <p>10 Q. Exactly. So, despite your cautious nature,</p> <p>11 is it your evidence that one day you retired</p> <p>12 from the workforce and, having taken all the</p> <p>13 precautions that you had taken to secure</p> <p>14 other evidence, you simply left your iPhone</p> <p>15 on the table, walked out of the door, caring</p> <p>16 not whether all your WhatsApps on it were</p> <p>17 lost?</p> <p>18 <b>A. You're -- you're oversimplifying one of</b></p> <p>19 <b>the most di--</b></p> <p>20 Q. Am I?</p> <p>21 <b>A. -- one of the most difficult periods of my</b></p> <p>22 <b>life. Simplifying, as if it was a natural</b></p> <p>23 <b>process, or --</b></p> <p>24 Q. Is the answer to my question yes or no?</p> <p>25 <b>A. What was your question?</b></p> <p style="text-align: center;">Page 150</p>	<p>1 <b>phone needed backing up too.</b></p> <p>2 Q. But do you not know that if you lose a</p> <p>3 mobile phone and you have not previously</p> <p>4 backed up, you simply lose all your -- I</p> <p>5 mean, never mind the RGP wiping it, if you</p> <p>6 just left it in a pub one day and your phones</p> <p>7 have not been backed up, you lose all your</p> <p>8 WhatsApp messages. There is no way of</p> <p>9 retrieving them. Do you know that?</p> <p>10 <b>A. I don't know.</b></p> <p>11 Q. Had you backed up your WhatsApps onto</p> <p>12 the cloud?</p> <p>13 <b>A. I --</b></p> <p>14 Q. Gmail, it would be called; the cloud is</p> <p>15 Apple.</p> <p>16 <b>A. I don't -- I don't understand that part of</b></p> <p>17 <b>the -- the --</b></p> <p>18 Q. No, I see.</p> <p>19 <b>A. -- process of backing up or not. But I -- I</b></p> <p>20 <b>tend to -- seem to think that you may be</b></p> <p>21 <b>wrong on one aspect.</b></p> <p>22 Q. I see.</p> <p>23 <b>A. And I'll -- if I -- if I may, I'll -- I'll try</b></p> <p>24 <b>and explain.</b></p> <p>25 Q. (inaudible) quickly, please.</p> <p style="text-align: center;">Page 152</p>

<p>1 <b>A. You've given the -- you've given the</b>  2 <b>example of losing your phone in the pub. I</b>  3 <b>believe that if -- this -- I stand to be</b>  4 <b>corrected. If you acquire another phone with</b>  5 <b>the same subscriber number and you cancel</b>  6 <b>the other one, you can still access your</b>  7 <b>accounts -- all accounts, not only WhatsApp,</b>  8 <b>all accounts -- by introducing the proper</b>  9 <b>security protocols.</b>  10 Q. Really? You think that?  11 <b>A. I believe so, yes.</b>  12 Q. Alright. Well, that's your view. That is a  13 matter for submissions later. Okay, I think  14 the point is made. But, look, you then  15 (fortuitously for you) found in a glasses-case  16 in November 2022, when you were tidying  17 up a desk in your drawer in your house, you  18 found a glasses case with lots of these things,  19 what would you call them, these things...?  20 <b>A. USBs. USB sticks.</b>  21 Q. Pen drive. And which just happened, one  22 of them happened to contain helpful stuff  23 about the airfield incident in 2017.  24 <b>A. That is correct.</b>  25 Q. Okay. Now, you also said this morning.</p> <p style="text-align: center;">Page 153</p>	<p>1 look for them.  2 <b>A. Valid points. I -- I agree that -- that if the</b>  3 <b>dates coincide, that I -- I had access to my</b>  4 <b>phones -- I do not know whether I had access</b>  5 <b>to my phones there and then or not, I --</b>  6 Q. And never mind the airfield incident  7 WhatsApp chat groups, the mere fact that  8 you asked for your SMT chat with colleagues  9 meant that, at the very least on that day that  10 you asked for that --  11 <b>A. Yes.</b>  12 Q. -- you became conscious of the possible  13 relevance of WhatsApp communications with  14 your colleagues.  15 <b>A. I -- I agree with you that --</b>  16 Q. And you still did not.  17 <b>A. -- but, except (?) which, if I may, I agree</b>  18 <b>that the fact that I directed through my</b>  19 <b>lawyers for STI to seek evidence from the</b>  20 <b>SMT's chat groups points to my awareness</b>  21 <b>about those chats existing, I agree 100</b>  22 <b>percent. And that is --</b>  23 Q. So if it was an oversight, this is another  24 opportunity that you missed to correct it?  25 <b>A. Well, I think it is the same sort of issue.</b></p> <p style="text-align: center;">Page 155</p>
<p>1 <b>A. The --</b>  2 Q. You also said this morning to my learned  3 friend that it was seeing these WhatsApps  4 that prompted you to seek the order from the  5 chairman asking for access to the SMT's chat  6 group, correct? Yes, that is what you said  7 this morning.  8 <b>A. I'm -- I'm not recalling it like that.</b>  9 Q. Well, that is my note. If you think my  10 note is wrong... It was not seeing these  11 things that prompted you?  12 <b>A. I think the... I cannot seem to recall to --</b>  13 Q. No, okay.  14 <b>A. -- agree with you. I can't, I can't.</b>  15 Q. But the fact of the matter is that when  16 you saw these WhatsApps between your  17 colleagues and you in relation to the airfield  18 incident which you rushed to disclose, was  19 not that the opportunity for you to say: oh,  20 my goodness, I have got lots of WhatsApps  21 with my colleagues on other issues under  22 inquiry, which I have inadvertently  23 overlooked; all these years, for two years I  24 have overlooked them, but now that I see that  25 they could be significant, now I am going to</p> <p style="text-align: center;">Page 154</p>	<p>1 Q. Sorry?  2 <b>A. It's -- I think it is the same issue. The</b>  3 <b>letter from my team requesting SMT chats</b>  4 <b>and...</b>  5 Q. Yes, but this is much later. This is much  6 later than your original failure to focus on  7 WhatsApp with your colleagues.  8 <b>A. The point is that I even sat through this</b>  9 <b>hearing, Mr Caruana.</b>  10 Q. Sorry.  11 <b>A. The point is, I even sat through this</b>  12 <b>hearing --</b>  13 Q. I see.  14 <b>A. -- and the penny did not drop.</b>  15 Q. I see.  16 <b>A. It was only until you raised it, and I hold</b>  17 <b>-- and I hold myself responsible for it.</b>  18 Q. Yes. Okay, but only once it has been  19 pointed out. If it had not been for this  20 reconvened hearing and the reasons for it,  21 this inquiry would have passed without us  22 knowing anything of what your chat with Mr  23 Ullger contains, do you accept that?  24 <b>A. I accept that.</b>  25 Q. Yes. On the reasons for your retirement,</p> <p style="text-align: center;">Page 156</p>

<p>1 Mr McGrail, can I just -- just to summarise, 2 as I have understood your evidence this 3 morning to my learned friend, you do not 4 accept that the clip, the transcript of which 5 was was read to you, of Mr Ullger with 6 minister Sacramento, that that does not mean 7 that you were then decided to retire. Was 8 that the effect of your evidence this morning? 9 <b>A. It was more elaborate than that, far more 10 elaborate. It was not a yes or no answer, and 11 I explained the context around that.</b> 12 Q. Well, I would like to just -- can we put it 13 on the screen again, E1106. And if you think 14 -- one option open to you is to simply say 15 that Mr Ullger got it completely wrong and 16 he went off on a brief for you, on a mistaken 17 brief for you. Is that the position? 18 <b>A. I don't think so, because --</b> 19 Q. You think this is accurate? 20 <b>A. I have got no reason to doubt it.</b> 21 Q. Okay. "The best scenario", "I told her", 22 this is the -- 23 THE CHAIRMAN: We did go through this 24 this morning. 25 SIR PETER CARUANA: Sorry, sir?</p> <p style="text-align: center;">Page 157</p>	<p>1 Q. Yes, explain it again. 2 <b>A. Okay.</b> 3 Q. If the chairman will allow us. 4 <b>A. First and foremost, I had no options, no 5 options whatsoever. Secondly -- I think I 6 covered it in my evidence, principal 7 evidence, I -- possibly first or third affidavit: 8 I saw it extremely difficult, if not impossible, 9 to be able to survive the -- the situation and 10 work with -- so, my -- the -- the confidence 11 was in -- actually reversed: how could I work 12 with somebody who was --</b> 13 Q. Okay. 14 <b>A. -- siding up with suspects? And that was 15 my position then. Now, relaxing about it and 16 reflecting hard, you think: well, was there 17 scope? Could we have sat and gloves off and 18 -- and had a go at each other and maybe 19 shake hands at the end, as on many occasions 20 happens. So, all that poss-- those 21 possibilities.</b> 22 Q. But why did you not have an option? 23 Could you not just have carried on and 24 defended the independence of the RGP. 25 <b>A. It -- it did -- it was an option, but not a --</b></p> <p style="text-align: center;">Page 159</p>
<p>1 THE CHAIRMAN: We did go through this 2 this morning. 3 SIR PETER CARUANA: Yes, yes, indeed 4 we did. (To the witness) And I am going to 5 ask you now which of those words there you 6 think are capable of meaning that you had 7 not yet decided to retire? 8 <b>A. The interpretation of the untenable side of 9 things does not sit right with me, it does not. 10 But -- and that is where I feel a bit 11 uncomfortable with that particular message. 12 But in general terms, it is what -- what -- I 13 have got no reason to doubt, what Mr Elgia 14 spoke to about.</b> 15 Q. But why was your position untenable, 16 had you both agreed, by the 29th? 17 <b>A. Because the -- he interpretation of 18 "untenable" does not necessarily accord with 19 yours, which is that I left because I knew that 20 I had lost the confidence. That is not the 21 reason why I left.</b> 22 Q. So, how had your position become 23 untenable? 24 <b>A. I have explained it before and I am 25 willing to do so again.</b></p> <p style="text-align: center;">Page 158</p>	<p>1 <b>a favourable one. Because --</b> 2 Q. You mean, not your preferred one. 3 <b>A. Well, not my preferred one and one that 4 was not realistic for me, in the sense that to 5 challenge this further would have meant 6 taking it to the courts. And I would not have 7 been any match whatsoever for my 8 adversaries in terms of legal or financial 9 resources. I -- I would not have been able to 10 match them.</b> 11 THE CHAIRMAN: How are we doing for 12 time, Sir Peter? 13 SIR PETER CARUANA: Five more 14 minutes, and I can finish. Five more 15 minutes, if you will allow me. 16 THE CHAIRMAN: Five minutes, okay. 17 SIR PETER CARUANA: I will try. Okay. 18 And when you said on 30 May, having said 19 what Mr Ullger said in that clip, that you say 20 does not mean that you had decided to retire, 21 how then do you explain your statement on 22 30 May to him that "All I want is a dignified 23 exit, not a forced one." What does that 24 mean? 25 <b>A. It means that I was -- if you read that on</b></p> <p style="text-align: center;">Page 160</p>

40 (Pages 157 to 160)



<p>1 <b>its own, it means what you want it to mean.</b></p> <p>2 Q. I am not reading it on its own. I am</p> <p>3 reading it with the clip of a previous day.</p> <p>4 <b>A. Well -- and then you have to bear in mind</b></p> <p>5 <b>the context that I have provided, which is that</b></p> <p>6 <b>I was more out than in and that I was</b></p> <p>7 <b>clinging onto the faintest of hopes. But if I</b></p> <p>8 <b>had to go, I wanted to go with dignity. That</b></p> <p>9 <b>is the supporting... narrative around those</b></p> <p>10 <b>messages. If you read them on their own, I</b></p> <p>11 <b>accept, like -- like you've come to the wrong</b></p> <p>12 <b>interpretations of them.</b></p> <p>13 Q. Alright. You think I have come to the</p> <p>14 wrong conclusion.</p> <p>15 <b>A. You certainly have.</b></p> <p>16 Q. Okay. So, we heard a lot of evidence</p> <p>17 yesterday about person-to-person</p> <p>18 conversations on the way to bathrooms and</p> <p>19 corridors, and all of that, and as a possible</p> <p>20 explanation for the absence of WhatsApp</p> <p>21 chats, do you remember that? Yes, I am sure</p> <p>22 you do. Notwithstanding --</p> <p>23 <b>A. But you -- I haven't answered your</b></p> <p>24 <b>question.</b></p> <p>25 Q. Yes, but it is yes or no. Do you</p> <p style="text-align: center;">Page 161</p>	<p>1 sea. There are WhatsApps about the HMIC</p> <p>2 report with Mr Ullger, and about the GPF,</p> <p>3 and about Operation Delhi and the 29 May</p> <p>4 letter, and the GPA process and Section 13</p> <p>5 and your decision to retire. All the other</p> <p>6 issues in the inquiry. The only issue upon</p> <p>7 which there is not a WhatsApp chat is the</p> <p>8 alleged interference in the meetings of the</p> <p>9 13, 15 and 20 May. Notwithstanding person-</p> <p>10 to-person chats.</p> <p>11 THE CHAIRMAN: I think you forgot to</p> <p>12 add: is that correct? Is the question.</p> <p>13 Q. Is that correct? Sir, I beg your pardon.</p> <p>14 Yes. Is that correct? That there are messages</p> <p>15 between you and Mr Ullger on all of these</p> <p>16 issues, despite the fact that you spoke to each</p> <p>17 other in the station. So, there is both chat in</p> <p>18 the station and WhatsApps about all these</p> <p>19 other issues. But about the interference (13,</p> <p>20 15 and 20 May) there is only chat in the</p> <p>21 station and zero WhatsApps?</p> <p>22 <b>A. That is correct.</b></p> <p>23 Q. Thank you. And the one WhatsApp chat</p> <p>24 that there is is the "all goodish" one that I</p> <p>25 will not waste any time on because we</p> <p style="text-align: center;">Page 163</p>
<p>1 remember that?</p> <p>2 <b>A. But -- but you haven't let me answer;</b></p> <p>3 <b>you've answered it for me.</b></p> <p>4 Q. Yes or no. Do you remember the</p> <p>5 evidence you heard yesterday about that?</p> <p>6 <b>A. About what?</b></p> <p>7 Q. About the fact that a possible explanation</p> <p>8 for the absence of WhatsApp chats is that</p> <p>9 there was person-to -- you have said it</p> <p>10 yourself this morning, person-to-person</p> <p>11 communication between officers at the</p> <p>12 station. Do you remember saying that?</p> <p>13 <b>A. I don't remember saying it like that: that</b></p> <p>14 <b>the -- the absence is due to that. I remember</b></p> <p>15 <b>saying that person-to-person to --</b></p> <p>16 <b>communication.</b></p> <p>17 THE CHAIRMAN: In essence --</p> <p>18 SIR PETER CARUANA: Yes.</p> <p>19 THE CHAIRMAN: -- that is correct.</p> <p>20 SIR PETER CARUANA: Thank you.</p> <p>21 Thank you, sir. But notwithstanding that</p> <p>22 (which is in essence correct, I am grateful,</p> <p>23 sir) (to the witness) there are WhatsApps</p> <p>24 about the airport incident, correct? Yes.</p> <p>25 There are WhatsApps about the incidents at</p> <p style="text-align: center;">Page 162</p>	<p>1 covered it this morning. And you focused on</p> <p>2 the word "goodish". I would like to focus on</p> <p>3 the word "all". What does "all goodish"</p> <p>4 mean?</p> <p>5 <b>A. In -- in --</b></p> <p>6 Q. Yes.</p> <p>7 <b>A. Can you read the message?</b></p> <p>8 Q. "All goodish", you said --</p> <p>9 <b>A. "All".</b></p> <p>10 Q. -- when he asked you how the meeting of</p> <p>11 the 15th had gone. And you focused on the</p> <p>12 word "goodish" this morning. And I want to</p> <p>13 focus on the word "all". Does "all goodish"</p> <p>14 not mean: nothing baddish? "All" must</p> <p>15 mean something.</p> <p>16 <b>A. In the -- in the negative situation that I</b></p> <p>17 <b>found myself, it was goodish, but the --</b></p> <p>18 Q. But you said "all goodish".</p> <p>19 <b>A. Yeah, but in the negative -- in the --</b></p> <p>20 Q. I see.</p> <p>21 <b>A. -- overall negative situation that I found</b></p> <p>22 <b>myself --</b></p> <p>23 Q. Okay.</p> <p>24 <b>A. -- it was goodish.</b></p> <p>25 Q. Okay. I do not want to overtax the</p> <p style="text-align: center;">Page 164</p>

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<p>1 chairman's indulgence with me on time, so I 2 just have one more issue to put to you, Mr 3 McGrail, in the time open to me. What did 4 you want to meet Charlie about? 5 <b>A. I have explained that it was in relation to</b> 6 <b>seeking, perhaps, a judicial route to address</b> 7 <b>the situation I was in, given that it was...</b> 8 <b>around what I perceive to be around the</b> 9 <b>criminal case of Delhi and therefore</b> 10 <b>whether... these were very loose</b> 11 <b>considerations that --</b> 12 Q. What was -- you have asked Mr 13 Richardson to ask his very good buddy, the 14 serving stipendiary magistrate, to meet with 15 you. And I am just asking you: can you state 16 clearly what that meeting was for? 17 <b>A. I have explained it to Mr Santos</b> 18 <b>previously.</b> 19 Q. Well, can I remind you what you said in 20 your witness statement? I cannot because I 21 do not have it here, but it was something to 22 do -- you had had an opinion from your 23 lawyers or something. Do you remember 24 that, saying that in your -- 25 <b>A. It -- no, no, no.</b></p> <p style="text-align: center;">Page 165</p>	<p>1 THE CHAIRMAN: There was an ongoing 2 dispute -- 3 <b>A. Yes.</b> 4 THE CHAIRMAN: -- as to whether or not 5 the magistrate should release the unedited 6 application. 7 Q. Yes. You thought it was appropriate to 8 have a meeting about Operation Delhi with 9 the stipendiary magistrate. 10 <b>A. The intention was there --</b> 11 Q. Yes. 12 <b>A. -- but the meeting never materialised.</b> 13 Q. The meeting never took place, but you 14 had the intention of having it. Did you 15 disclose this request for a meeting to 16 Hassans, for example? Or to the DPP, who 17 was representing you in the warrant matter? 18 MR WAGNER: I am sorry, but there is no 19 evidence that there was an actual request for 20 a meeting. 21 SIR PETER CARUANA: Sorry? 22 MR WAGNER: Well, the meeting did not 23 happen, and I mean, what... 24 SIR PETER CARUANA: I am sorry, of 25 course there was a request for a meeting. Mr</p> <p style="text-align: center;">Page 167</p>
<p>1 Q. Sorry, can you go. Can you turn to E253, 2 I beg your pardon. I did not have the quote, 3 but I had the reference. 4 <b>A. Yeah.</b> 5 Q. It is just a bit further down. 6 <b>A. I have got it here.</b> 7 Q. Stop there, Mr Triay, thank you. Mr 8 Richardson. "My privilege to. How are 9 you?" And you say "Ian, it's because of a 10 convo I had with my lawyers, an opinion I 11 would want to share with him." What 12 opinion did you want to share with the 13 stipendiary magistrate? 14 <b>A. It was a conversation that I had with my</b> 15 <b>lawyers about a potential route to address the</b> 16 <b>situation I was mean-- I was in.</b> 17 Q. Yes. 18 <b>A. In terms of it being the judicial route.</b> 19 Q. Yes. But this is the same stipendiary 20 magistrate who was about to have to decide 21 and determine Hassans' application for 22 release to them of warrant information. Do 23 you think that meeting was appropriate? 24 <b>A. I'm not sure that there was an application.</b> 25 Q. There is correspondence about it.</p> <p style="text-align: center;">Page 166</p>	<p>1 McGrail asked Mr Richardson to arrange a 2 meeting with Charlie, who we now know is 3 stipendiary magistrate. He thanked him for 4 arranging it and he was kind enough to tell us 5 in that what the meeting was about. And I 6 am asking you whether you shared with 7 anybody else outside of the RGP, or all the 8 other players involved in Operation Delhi, 9 that you were seeking secret meetings with 10 the stipendiary magistrate. Is it normal -- 11 <b>A. It's --</b> 12 Q. -- for the Commissioner of Police to meet 13 with judges? 14 <b>A. It was not a -- definitely, a secret meeting.</b> 15 <b>This was to address the circumstances I was</b> 16 <b>finding myself in with regards to the</b> 17 <b>termination of my post.</b> 18 Q. Did you tell anybody else about that? 19 <b>A. Other than Mr Richardson, no?</b> 20 Q. Is that not in your definition of a secret 21 meeting? Why is that less secret than Mr 22 Levy's Sunday meeting with his friend Mr 23 Picardo in his house? 24 THE CHAIRMAN: That is not a helpful 25 analogy.</p> <p style="text-align: center;">Page 168</p>

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<p>1 Q. Well, that is for you to decide, sir, 2 certainly, like everything else. But whether 3 people in glass houses throw stones is not 4 entirely irrelevant. Thank you, Mr McGrail. 5 THE CHAIRMAN: Is it the thing you are 6 on, Mr Cruz? You need not ask questions if 7 you do not want to. 8 MR CRUZ: Thank you, Mr Chairman. I 9 always take the encouragement you give me 10 most seriously. But I will just be a couple of 11 questions. 12 THE CHAIRMAN: No, sure. 13 Questioned by MR CRUZ 14 Q. So the suggestions just made were that 15 there was only one exchange reference, any 16 concerns about interventions or meetings in 17 relation to that. At least, that is how I 18 understood it: the "goodish" or not-baddish 19 exchange. Can I just ask you to be shown 20 E745. There is a few exchanges here. One, 21 you will see at 2388. You will see the date 22 there, 16 May 2020. Now, this is a matter for 23 you to answer because I am not sure if this 24 has a relevance to it. But of course, one of 25 my clients is Mr Ullger, "I am hoping that JL</p> <p style="text-align: center;">Page 169</p>	<p>1 response immediately below "Rich, thanks, 2 mate. Means a lot. I am being realistic of 3 what is likely to happen, it's a ruthless world 4 out there." Those are dated on 20 May? 5 There was a meeting, was there, on 20 May? 6 <b>A. I don't think so, but it was probably on 7 the back of an email correspondence from Mr 8 Picardo relating to the refusal at that point 9 and very stern tenor relating to the collision 10 at sea.</b> 11 SIR PETER CARUANA: (inaudible) just to 12 remind him that the evidence from all the 13 witnesses was that in the meeting of 20 May 14 there had been no allegation of interference. 15 Q. Well, my question really was whether or 16 not some of those other messages would be 17 added to the "goodish" one, in terms of 18 exchanges between you and Mr Ullger. 19 <b>A. I think we're being very selective on 20 messages. I've -- I've explained the general 21 atmosphere at the time, and that encapsulates 22 what the mood was. That it's not reflected on 23 a WhatsApp message is not in my view 24 significant, because the alle-- the 25 interference that I perceived is very difficult</b></p> <p style="text-align: center;">Page 171</p>
<p>1 does not force the issue where we have to 2 end up arresting him." Is that as well result 3 of the meeting the day before? 4 <b>A. It would appear so, because the meeting 5 was on the 15th, yes.</b> 6 Q. So, would that be an exchange that you 7 would say is in addition to the "goodish" 8 exchange? 9 <b>A. It would appear so, yes.</b> 10 Q. And the one below, immediately below. 11 "Yeah, ave lo que pasa Monday." (?) 12 (Spanish text read), "Yeah, let's see what 13 happens Monday." Could that be one that 14 falls into that bracket? 15 <b>A. If Monday happens to be the 18th, then it 16 most likely would, because I think there was 17 another meeting on the 18th.</b> 18 Q. Right. 19 THE CHAIRMAN: I think the 18 was the 20 day provisionally booked for Mr Levy to be 21 interviewed under caution. 22 Q. Indeed. Indeed, sir. And if I may just ask 23 you to go to 747, number 2400. This 24 exchange, which we have seen before. So, 25 you will see Mr Ullger and then your</p> <p style="text-align: center;">Page 170</p>	<p>1 <b>to be explained on a -- on a text, you've got 2 to explain it verbally, and I think I've -- 3 we've heard evidence from both, because I 4 distinctly remember myself that I briefed 5 them up on it. I briefed them up in my 6 office, the whole team.</b> 7 <b>(14.44)</b> 8 Q. Well, can I just finish on that then? 9 <b>A. To the point where, which was not 10 covered -- to the point where Mr Yeats 11 offered his counsel and said: you should 12 report this to the governor. You should report 13 this to the GPA, because he saw it serious 14 enough. Mr Yeats was unfortunately -- and 15 this has now dawned on me, I recall this now, 16 but that was his advice and I took up on his 17 advice and I did report it to the GPA. I didn't 18 do it to the governor because out of a sense 19 of now false deference to the chief minister 20 and to the Attorney General, I didn't.</b> 21 Q. Well, just one last question before I give 22 way. Yesterday, Mr Ullger, you might have 23 heard, talked about meetings that took place 24 after 12 May. And Mr Chairman asked 25 whether there were any minutes to those</p> <p style="text-align: center;">Page 172</p>

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<p>1 meetings and/or -- you know, I think, to 2 establish when they took place. Can I just 3 ask you (a) did meetings take place? If so, 4 can you remember approximately how 5 many? Do you know if any minutes were 6 taken? 7 <b>A. I would not have classed them... There 8 were meetings because we were together as a 9 group, but they were not formal meetings. 10 They were more conversations and me 11 providing an update of how things were 12 panning out and we were bouncing off views. 13 So there was not -- this was not a structured 14 meeting with any agenda where minutes 15 were taken. No.</b> 16 Q. Okay. And was that one or more than 17 one? 18 <b>A. There were probably more than one 19 because every time I came back, they would 20 expect an update from me. I came back 21 from.... When I am saying "back", back from 22 meetings with the Attorney general, and how 23 -- what was the mood like? What was 24 tensions? Any tensions? Any progress? 25 What was the situation? How should we</b></p> <p style="text-align: center;">Page 173</p>	<p>1 you to be an invitation to consider or an 2 instruction? 3 <b>A. He, in no uncertain terms said, if you are 4 not going to take up the instruction... Well, 5 he didn't say "instruction". If you're not 6 going to retire, I will be considering invoking 7 my powers.</b> 8 Q. Powers to do what? 9 <b>A. To remove me from office.</b> 10 Q. So across that period, from 22 May to 5 11 June, did you feel you were in control of the 12 situation? 13 <b>A. No, no, no.</b> 14 THE CHAIRMAN: I think, strictly -- you 15 speak of an instruction. I think the first letter 16 of 22 May was actually a requirement to 17 retire. 18 MR WAGNER: Requirement. I do not know. 19 Is there a difference? 20 THE CHAIRMAN: Well, I think that is the 21 language of the statute. 22 MR WAGNER: A requirement, yes. Yes, that 23 is the language of the --? 24 <b>A. Instructive, is the way I perhaps should 25 describe it. And the letter was instructive.</b></p> <p style="text-align: center;">Page 175</p>
<p>1 <b>shape ourselves? How should we not? All 2 those considerations.</b> 3 Q. Thank you, Mr McGrail. 4 QUESTIONED BY MR WAGNER 5 Q. Sorry, I was not looking in the right 6 direction. Just a few questions from me, Mr 7 McGrail. Just in relation to the GPA process, 8 earlier today, Mr Santos referred to the GPA's 9 invitation to you. But you, I think, used the 10 word "instruction". How did you 11 understand... Did you understand it as an 12 invitation or an instruction? 13 <b>A. Initially, when it was handed to me it was 14 overwhelming. I did not peruse the contents. 15 I couldn't understand where this was coming 16 from, and I hadn't even researched the law. 17 But in closer inspection with yourselves and 18 Mr Gomez, it was in those deliberations and 19 discussions that I deduced that it was more of 20 an instruction. It was an instructive letter, 21 which I think the GPA accepted.</b> 22 Q. And when you met with Mr Pyle on 5 23 June. I think it was 5 June, on the Friday --? 24 <b>A. Yes.</b> 25 Q. -- did you understand what he was telling</p> <p style="text-align: center;">Page 174</p>	<p>1 THE CHAIRMAN: Anyway... 2 MR WAGNER: I just want to ask you about 3 the Concerns WhatsApp group. So E114, 4 please. Sorry, it must be E1114. Just on the 5 next page. This is the WhatsApp group the 6 Chief Minister set up with the Governor and 7 Mr Ullger in January, mid-January 2023. 8 Had you seen these messages before they 9 were disclosed by Mr Ullger -- 10 <b>A. No, I had not --</b> 11 Q. -- recently? 12 <b>A. No, I hadn't.</b> 13 Q. What was your reaction when you read 14 them? 15 <b>A. I had two main -- I had various views, but 16 I had two main observations. The first one 17 was that nearly two years had elapsed from 18 my departure. Mr Picardo seemed to be 19 fixated with me in sharing all these 20 information with the Commissioner and the 21 governor -- some form of obsession that he 22 had with me beyond what I would consider 23 to be a dispute, like there was in terms of that 24 he was claiming that I was lying. This went 25 beyond an obsession that could seriously</b></p> <p style="text-align: center;">Page 176</p>

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<p>1 taint me towards working -- towards 2 presenting myself in the Inquiry, or even 3 worse, because there was the suggestions of 4 criminal behaviour alleged against me. That 5 is the first one -- the first main observation 6 that I make. And secondly, there is the 7 alluding to the Commissioner confirming that 8 I had made allegations, although I have to 9 give it to Mr Ullger, he does not divulge 10 about the allegations of what they were 11 because in essence, the allegations I was 12 making was against the government and the 13 Chief Minister in particular. So, good that 14 Mr Ullger did not give the details, but I 15 would not have even released that 16 information myself. And thirdly, that the... 17 From what I -- these are my takes from the 18 chat there, that Mr Picardo, very subtly 19 extracts from Mr Ullger -- again, I do not 20 know how and why he did this -- very subtly 21 extracts that there is no investigation taking 22 place against a particular person who 23 Hassans and him had links, strong links with. 24 So that is... I am thinking, why is he asking 25 about this? He is asking him via introducing</p> <p style="text-align: center;">Page 177</p>	<p>1 <b>A. Yes.</b> 2 Q. Just in one sentence, what was that 3 statement about? 4 <b>A. That was my statement of complaint that</b> 5 <b>had been requested from me from -- by the</b> 6 <b>police and which I was handing it into</b> 7 <b>original format to Mr Santos, who was, I</b> 8 <b>understand, at the time, investigating the</b> 9 <b>matter that I reported.</b> 10 Q. Is that the complaint about the witness 11 inducement? 12 <b>A. Indeed, yes.</b> 13 Q. How would you describe your 14 relationship with Commissioner Ullger 15 before you left the RGP? 16 <b>A. That relationship spanned three decades,</b> 17 <b>more than three decades. And we had a very</b> 18 <b>similar career path, even in... So, that from</b> 19 <b>the professional side, we developed a</b> 20 <b>personal relationship. And I would describe</b> 21 <b>it as probably being best friends by the time I</b> 22 <b>had left. We used to leapfrog each other in</b> 23 <b>the promotion ladder. He would overcome</b> 24 <b>me at one occasion and I would overcome</b> 25 <b>him. And that was very sort of normal</b></p> <p style="text-align: center;">Page 179</p>
<p>1 me in this angle, which makes no sense 2 because there was nothing, nothing. The 3 insinuation, which again taints me because it 4 is shared with the governor -- my word -- that 5 is a very serious and defamatory allegation to 6 make. I do not know who passed the 7 information to him and what credibility those 8 people have. 9 Q. . Are you talking about the allegation that 10 you were -- you had gone to Special Branch - 11 - 12 <b>A. Yes.</b> 13 Q. -- trying to obtain information -- 14 <b>A. Yes.</b> 15 Q. -- about -- 16 <b>A. I am sure --</b> 17 Q. -- a former associate. 18 <b>A. I am sure that -- and I hope that, Mr</b> 19 <b>Ullger has investigated this and established</b> 20 <b>that that is not the case. I truly hope that that</b> 21 <b>is the case.</b> 22 THE CHAIRMAN: I think we are straying 23 rather from the grounds of relevance. 24 MR WAGNER: And there is reference to 25 you giving a statement to John Santos?</p> <p style="text-align: center;">Page 178</p>	<p>1 <b>professional competition. in my professional</b> 2 <b>life with him We had our differences. We not</b> 3 <b>necessarily agreed on things every time, but</b> 4 <b>we were professional enough to respect each</b> 5 <b>other and accept whenever things were not</b> 6 <b>working the way the other person -- or who</b> 7 <b>disagreed took it. So it was a good</b> 8 <b>relationship.</b> 9 Q. And you were good friends as well? 10 <b>A. Best of friends.</b> 11 Q. Best of friends. And how would you 12 describe your relationship with Mr Ullger, 13 with Commissioner Ullger, after you left the 14 RGP? 15 <b>A. Well, the relationship is no longer</b> 16 <b>existent.</b> 17 Q. Sorry, I did not catch that. 18 <b>A. That is no longer existent.</b> 19 Q. You are no longer friends? 20 <b>A. I have not had contact with him.</b> 21 Q. And just in relation to that, at E1108, 22 there is an exchange of emails that... Sorry, 23 have I given the wrong reference? 1111 -- 24 E1111. There it is. This is an exchange of 25 emails. Can we just go up to the previous</p> <p style="text-align: center;">Page 180</p>

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<p>1 page, please? 29 November 2022. So, after 2 the Inquiry has been announced. You do not 3 have to go into the detail of it at all, but is it 4 right that you were disinvited from the Senior 5 Officers Club, a Senior Officers Club dinner, 6 and you, as a result, resigned from the Senior 7 Officers Club? 8 <b>A. I was a paying member of that club and 9 yes, I had to withdraw my application, my 10 membership.</b> 11 Q. And do you -- more broadly, in your 12 view, has the senior RGP been careful to 13 avoid contact with you since the Inquiry was 14 called? 15 <b>A. Careful? No, I think they have been 16 deliberate.</b> 17 Q. Yes. And why do you... What is your 18 impression as to why that has been? 19 <b>A. They have got to... They have their 20 reasons. But my take is that they need to 21 uphold that perception of conflict or, or bias 22 that could affect them or me or anybody else.</b> 23 Q. Yes. And on a personal level, how has 24 that made you feel. 25 <b>A. Ostracised from the furthest... Ostracised</b></p> <p style="text-align: center;">Page 181</p>	<p>1 Richardson. 2 (14.58) 3 (A small break) 4 (15.08) 5 THE CHAIRMAN: Sorry, I may have 6 jumped the gun. I am very sorry, Mr Gibbs. 7 It is my fault. 8 MR GIBBS: Not at all. 9 THE CHAIRMAN: If you want a break, just 10 ask for it and we will immediately 11 accommodate it. 12 MR SANTOS: Good afternoon, Mr 13 Richardson 14 MR PAUL RICHARDSON: 15 QUESTIONED BY MR SANTOS 16 Q. Can I please take you to your fourth and 17 fifth statements, which hopefully you will 18 have in front of you? Can I ask you to 19 confirm for both of them whether they are 20 your fourth and fifth statements, whether it is 21 your signature on the final page, and whether 22 the contents of those witness statements are 23 true to the best of your knowledge, 24 information and belief? 25 <b>A. They are.</b></p> <p style="text-align: center;">Page 183</p>
<p>1 <b>from the extended police family? It...</b> 2 Q. Just finally, is it right that you called for 3 this Inquiry? 4 <b>A. I did and I did so on the back of the 5 comments made by the Chief Minister in 6 Parliament.</b> 7 Q. What approach have you taken generally 8 to cooperation with and disclosure to this 9 Inquiry. 10 <b>A. I think, you know, I have put every effort 11 into it.</b> 12 Q. Every effort and anything more? 13 <b>A. And a lot of personal sacrifice.</b> 14 Q. And has the process been a difficult one 15 for you personally? 16 <b>A. Beyond. Beyond problematic.</b> 17 Q. Thank you. 18 THE CHAIRMAN: No, thank you. Okay. 19 Thank you very much? 20 <b>A. Thank you.</b> 21 THE CHAIRMAN: Do you want to ask a 22 question? 23 COUNSEL: No. 24 THE CHAIRMAN: We will have a break 25 now and we will reassemble with Mr</p> <p style="text-align: center;">Page 182</p>	<p>1 Q. You say in paragraph 3 and 4 of your fifth 2 statement that your primary means of 3 communication with Mr McGrail was always 4 face to face and you set out other means of 5 communication between you and him. One 6 of the things that you refer to is WhatsApps 7 between your work devices and between 8 your personal devices. Did you ever 9 message between personal and work devices? 10 So from your personal device to his work 11 device or from your work device to his 12 personal device? 13 <b>A. It's possible that I did. I note from doing 14 my preparation for this hearing that there are 15 times when I have told other parties, "contact 16 me on this phone, I have left the other phone 17 at work" or "I've been locked out because 18 it's restarted." So it's possible that I did both.</b> 19 Q. Which do you think you used more with 20 Mr McGrail? Work to work or personal to 21 personal? 22 <b>A. I would imagine more the personal 23 device, but as I don't have access to my work 24 device, I don't know what the frequency of 25 traffic on that was.</b></p> <p style="text-align: center;">Page 184</p>

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<p>1 Q. In your fourth statement at paragraph 4, 2 you explained that shortly before you 3 commenced pre-retirement leave in May 4 2021, you returned your work issued mobile 5 phone and SIM card. Was that an iPhone? 6 <b>A. Yes, it was.</b> 7 Q. How long had you used that phone for? 8 <b>A. Since December of the year before, I 9 think.</b> 10 Q. Who did you return it to? 11 <b>A. I think, although I am not certain about 12 this, that I returned it to the IT person that 13 was -- his office was literally just opposite 14 my office.</b> 15 Q. It is fair to say that you only mentioned 16 your work phone through your counsel, Mr 17 Gibbs KC shortly before the main Inquiry 18 hearing, when the Inquiry asked why the 12 19 May message was not in your disclosure? 20 Why did you not mention your work device 21 earlier? 22 <b>A. It never occurred to me to mention my 23 work device because I didn't have access to 24 any of the messages that were in it.</b> 25 Q. Were you aware of the mobile devices</p> <p style="text-align: center;">Page 185</p>	<p>1 <b>disclosure exercise with regard to Operation 2 Delhi. There was a barrister from the Office 3 of Criminal Prosecution Litigation appointed 4 as the head of that with six officers. They'd 5 spent six months going through all of the 6 disclosure exercises. And WhatsApps 7 between police officers were not something 8 that was considered as relevant for 9 disclosure. They were not something which 10 led to undermining the prosecution's case or 11 strengthening the defence's case.</b> 12 Q. When you say -- do you mean that 13 WhatsApps were not disclosed or that 14 WhatsApps between officers were not 15 reviewed at all? 16 <b>A. They were not considered relevant? I had 17 gone through my messages and anything that 18 was -- that was particularly relevant, I would 19 have put a note in my daily daybook 4.</b> 20 Q. Sorry, but my question was, as part of 21 that disclosure exercise... Are you getting 22 some feedback? 23 <b>A. Yes, just getting a little bit of feedback.</b> 24 Q. I do not know, maybe if I could... 25 <b>A. Maybe it is my speaker microphone.</b></p> <p style="text-align: center;">Page 187</p>
<p>1 policy under which phones were wiped upon 2 retirement? 3 <b>A. I have refreshed my memory with it since 4 I have retired because it was disclosed. But 5 if you had asked me during the main hearing, 6 I wouldn't have remembered that.</b> 7 Q. And what about if I had asked you at the 8 time of your retirement? 9 <b>A. I couldn't say. That was four or five 10 years ago now.</b> 11 Q. Did you realise that your phone would be 12 wiped when you handed it in? 13 <b>A. Yes, I would have expected it to be wiped 14 and would have been concerned if it hadn't 15 been wiped.</b> 16 Q. You are aware that in any prosecution 17 arising out of an RGP investigation, the RGP 18 will be under a duty of disclosure, are you 19 not? 20 <b>A. Yes, I am aware.</b> 21 Q. When you retired, why did you not 22 arrange for your messages to be preserved, at 23 least insofar as they related to Operation 24 Delhi? 25 <b>A. We'd gone through a very comprehensive</b></p> <p style="text-align: center;">Page 186</p>	<p>1 Q. My question was: as part of the Operation 2 Delhi exercise, did you go through your 3 WhatsApps to see whether there was 4 anything relevant to disclose, or did you not 5 go through your WhatsApps at all because 6 you did not consider that they would be 7 relevant? 8 <b>A. I think it would be the combination of 9 both. I would have been checking as I have 10 gone along, and anything that was important, 11 I would have made a note of in my daybook, 12 the same as all the conversations that I had 13 had with Mr Guerrero and any of the other 14 parties.</b> 15 Q. So the answer is that you did not actually 16 go through your WhatsApps as part of the 17 Operation Delhi process? 18 <b>A. Not just before I retired, no. I didn't sit 19 down and go through every single 20 WhatsApp.</b> 21 Q. Sorry, the disclosure process in Operation 22 Delhi. 23 <b>A. The disclosure process for Operation 24 Delhi was as it was unfolding, so that if there 25 is anything relevant that was as part of a</b></p> <p style="text-align: center;">Page 188</p>

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<p>1 <b>WhatsApp message, and I do not think that</b>  2 <b>there was, I made a note of it in my daybook.</b>  3 Q. Given the controversial circumstances of  4 Mr McGrail's departure and your contact  5 with him in those last couple of months, did  6 you ask the RGP to preserve your WhatsApp  7 messages with him at the time of your  8 departure?  9 <b>A. No.</b>  10 Q. Why not?  11 <b>A. As I mentioned, WhatsApps between</b>  12 <b>police officers were not routinely considered</b>  13 <b>for criminal disclosure at that time in the</b>  14 <b>RGP. I don't know what the situation is at</b>  15 <b>the moment.</b>  16 Q. But I mean in relation to the Inquiry.  17 <b>A. In relation to the Inquiry? When I retired</b>  18 <b>in 2021, the Inquiry had been announced the</b>  19 <b>year before, but nothing had happened. And</b>  20 <b>nothing happened for another two years after</b>  21 <b>it was announced. So, it wouldn't have been</b>  22 <b>in my mind, no.</b>  23 Q. Yesterday we heard from Mr Yeats about  24 the transition of a number of senior officers  25 from Samsung to iPhone in November 2020.</p> <p style="text-align: center;">Page 189</p>	<p>1 <b>moved on to official devices, we were issued</b>  2 <b>official phone numbers.</b>  3 Q. Why have you never mentioned that  4 Samsung device to the Inquiry?  5 <b>A. It's the same work device that I have said</b>  6 <b>-- mentioned before.</b>  7 Q. Do you know what has happened to that  8 device?  9 <b>A. Only from the statements that have been</b>  10 <b>submitted to the Inquiry. It was handed in. It</b>  11 <b>would have been reused by another officer,</b>  12 <b>I'm guessing.</b>  13 Q. Did you realise that changing from  14 Samsung to iPhone in November 2020 would  15 result in your messages being lost?  16 <b>A. No.</b>  17 Q. After the change, you would have had no  18 WhatsApp messages at all on your phone  19 when you started --?  20 <b>A. That's correct.</b>  21 Q. -- using it?  22 <b>A. Yes.</b>  23 Q. Did you realise that?  24 <b>A. At some point we all must have realised.</b>  25 <b>I could not remember that this had happened</b></p> <p style="text-align: center;">Page 191</p>
<p>1 Is his evidence correct that you changed  2 phone from Samsung to iPhone in November  3 2020?  4 <b>A. Yes, all the senior command team did.</b>  5 Q. So does that mean that there was another  6 device, a Samsung, which you were using in  7 May 2020?  8 <b>A. No. In December 20 -- I think it was</b>  9 <b>November or December '20 we all changed</b>  10 <b>over from Samsung to Apple iPhones and I</b>  11 <b>handed my Samsung phone back in at that</b>  12 <b>time.</b>  13 Q. Yes. So my point is, in May 2020 --  14 <b>A. Yes.</b>  15 Q. -- you were using a Samsung device.  16 <b>A. Yes, that is correct, yes.</b>  17 Q. Did that have the same phone number as  18 your iPhone ending 9004?  19 <b>A. No, it would not have done because when</b>  20 <b>we moved over... Yes, sorry, it would have</b>  21 <b>done. Before that, I was using my own</b>  22 <b>personal number. The situation in the RGP</b>  23 <b>was that we used our own personal devices</b>  24 <b>and our own personal numbers, which were</b>  25 <b>paid for by the organisation. But when we</b></p> <p style="text-align: center;">Page 190</p>	<p>1 <b>until it was pointed out in evidence now.</b>  2 THE CHAIRMAN: You must have realised,  3 but attached no significance to it.  4 <b>A. Yes, because we started off with a new</b>  5 <b>phone with a new number and new</b>  6 <b>WhatsApp groups . We didn't carry on the</b>  7 <b>WhatsApp group that existed on the previous</b>  8 <b>platform. There was a new WhatsApp group</b>  9 <b>created.</b>  10 MR SANTOS: Were you concerned about  11 the fate of the messages that you had had on  12 your phone until that point?  13 <b>A. We must have discussed it. I can't</b>  14 <b>remember being overly concerned about it.</b>  15 Q. Did you make any inquiries about  16 backing up or transferring those messages?  17 <b>A. I think there was some discussion at some</b>  18 <b>point between me and Mr Yeats about being</b>  19 <b>able to back up devices, because I was</b>  20 <b>researching a corporate programme that</b>  21 <b>allowed you to manage all the devices</b>  22 <b>through one account, and I don't think it</b>  23 <b>came to anything. It's a difficult thing to do,</b>  24 <b>to manage 20 to 30 different phones with</b>  25 <b>different passwords and different accounts.</b></p> <p style="text-align: center;">Page 192</p>

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<p>1 Q. Given the fact that Cornelio, Perez and 2 Sanchez had been charged only two months 3 earlier, in September 2020, did you not seek 4 to at least preserve your messages relating to 5 Operation Delhi when you changed phones? 6 <b>A. No. As I have explained before,</b> 7 <b>WhatsApps between police officers were not</b> 8 <b>routinely considered as relevant for</b> 9 <b>disclosure. Anything that was relevant to</b> 10 <b>disclosure had been reduced to a daybook</b> 11 <b>entry.</b> 12 THE CHAIRMAN: Reduced to? 13 <b>A. A daybook entry? An entry in my</b> 14 <b>daybook, sir.</b> 15 MR SANTOS: The Inquiry sent you a 16 request for evidence and disclosure on 22 17 July 2022, and in response, you filed a 18 witness statement and a number of curated 19 WhatsApp messages between you and Mr 20 McGrail between 14 February 2019 and 9 21 June 2020. You described those as "curated". 22 Did you mean by that that you had filtered 23 out any irrelevant messages? 24 <b>A. I did.</b> 25 Q. In your second witness statement, you</p> <p style="text-align: center;">Page 193</p>	<p>1 mention to the Inquiry that you did not have 2 messages from your work device? 3 <b>A. Because I think the focus was on</b> 4 <b>disclosing what I had in my possession and</b> 5 <b>control -- and that was neither.</b> 6 Q. In November 2024 the Inquiry requested 7 further disclosure from you covering the 8 period 1 January to 30 June 2020. And you 9 disclosed some later messages with Mr 10 McGrail. Those were from your same 11 personal phone, both to his number while he 12 was at the RGP and a new personal number 13 which he started using in June 2020. Why 14 had you not previously disclosed those 15 messages? 16 <b>A. The first part of it was because it was</b> 17 <b>outside of the scope of the range that I'd</b> 18 <b>determined were relevant. I wasn't given a</b> 19 <b>date -- a set of dates as I was when you asked</b> 20 <b>in the instance that you've just said. My</b> 21 <b>cutoff point was 9 June, which was the date</b> 22 <b>that Mr McGrail left the Force. So that, I</b> 23 <b>thought, was an appropriate time to say any</b> 24 <b>messages up to that point or beyond that</b> 25 <b>point could not have contributed towards the</b></p> <p style="text-align: center;">Page 195</p>
<p>1 referred to the message that you sent Mr 2 McGrail just before you attended Hassans to 3 execute the search warrants. Presumably, 4 given its inclusion in your witness statement, 5 you considered that the message was relevant 6 to the Inquiry? 7 <b>A. It was relevant in as much as I was telling</b> 8 <b>the Commissioner of Police, I am about to go</b> 9 <b>do what we had -- what you already knew we</b> 10 <b>were going to be doing.</b> 11 Q. When did you realise that you did not 12 have that message on your personal device? 13 <b>A. When I went through the disclosure</b> 14 <b>exercise and realised that I didn't have that</b> 15 <b>particular message.</b> 16 Q. And did you at that point conclude that it 17 was on your work device? 18 <b>A. I deduced that it must have been on my</b> 19 <b>work device.</b> 20 Q. Why did you not mention to the Inquiry 21 at that point that you did not have messages 22 from your work device? 23 <b>A. I didn't have any messages from my work</b> 24 <b>device. Not just that one.</b> 25 Q. Yes. My question is: why did you not</p> <p style="text-align: center;">Page 194</p>	<p>1 <b>reasons for Mr McGrail leaving. So that was</b> 2 <b>my cut off point. The messages that were</b> 3 <b>included in the beginning of January of that</b> 4 <b>year, which you asked me to disclose, all of</b> 5 <b>them, including the ones that I had redacted,</b> 6 <b>were personal messages. There was a</b> 7 <b>message about my mother going -- visiting</b> 8 <b>my mother because of the Covid Regulations,</b> 9 <b>and there was something to do with the Force</b> 10 <b>Intelligence Officer appointee.</b> 11 Q. Can we focus on the messages on your 12 personal device? If we go to C7006, please? 13 These are the messages between you and Mr 14 McGrail disclosed from your phone, and 15 there are no messages between you and Mr 16 McGrail from 30 April 2020 until 22 May 17 2020, and that includes 12 May 2020, when 18 you know a message was sent, that you 19 conclude that that must have been between 20 work phones. This is something that you 21 have addressed in your statement, but can I 22 just ask you to explain why there are no 23 messages between those numbers in the three 24 weeks from 30 April until 22 May 2020? 25 <b>A. Well, first of all, there are messages on 30</b></p> <p style="text-align: center;">Page 196</p>

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<p>1 <b>April. The period is from 1 May onwards.</b></p> <p>2 <b>And the simple answer to that is that there</b></p> <p>3 <b>are no messages because I sent no messages</b></p> <p>4 <b>or received no messages during that period.</b></p> <p>5 Q. In your fifth statement, paragraph five,</p> <p>6 you point out that there were many other</p> <p>7 periods where you and Mr McGrail did not</p> <p>8 message each other for several weeks. Are</p> <p>9 those gaps there because there were no</p> <p>10 WhatsApp communications between you at</p> <p>11 all, or because it was taking place on your</p> <p>12 work devices?</p> <p>13 <b>A. There are no messages exchanged</b></p> <p>14 <b>between the personal device which is what</b></p> <p>15 <b>I'm talking about. I don't have access to the</b></p> <p>16 <b>work device. So it is possible that there was</b></p> <p>17 <b>communication between us on work devices.</b></p> <p>18 Q. But you do not really... I mean, you</p> <p>19 highlight about four or five. But are you able</p> <p>20 to say whether there would have been work</p> <p>21 communications in those gaps or are you</p> <p>22 not?</p> <p>23 <b>A. No, I am able to say that on my work --</b></p> <p>24 <b>on my personal device, the fact that as you</b></p> <p>25 <b>have pointed out that there are no messages</b></p> <p style="text-align: center;">Page 197</p>	<p>1 <b>period during -- my work phone during that</b></p> <p>2 <b>period because I do not have access to those</b></p> <p>3 <b>records. What I can say with almost</b></p> <p>4 <b>certainty is that the message that you are</b></p> <p>5 <b>looking for, the message of 12 May, which</b></p> <p>6 <b>was just to advise Mr McGrail that we were</b></p> <p>7 <b>attending Hassans with a warrant, must have</b></p> <p>8 <b>been on the work phone because it is not on</b></p> <p>9 <b>this device.</b></p> <p>10 Q. So, on the assumption that it is on your</p> <p>11 work device, why would you have switched</p> <p>12 to your work device for that message?</p> <p>13 <b>A. I would have probably made a conscious</b></p> <p>14 <b>decision to send it on my work device then</b></p> <p>15 <b>because it was specifically related to an</b></p> <p>16 <b>active live police investigation which was</b></p> <p>17 <b>being executed.</b></p> <p>18 Q. But, Mr Richardson, we have seen -- if</p> <p>19 we go back in time, there are many messages</p> <p>20 from you to Mr McGrail about the Operation</p> <p>21 Delhi investigation. For example, the</p> <p>22 interviews that are taking place where you</p> <p>23 are messaging him from your personal</p> <p>24 phone.</p> <p>25 <b>A. Yes, that is correct.</b></p> <p style="text-align: center;">Page 199</p>
<p>1 <b>between this period and that period is not</b></p> <p>2 <b>uncommon. In fact, it is a shorter period than</b></p> <p>3 <b>other periods when I haven't exchanged</b></p> <p>4 <b>messages with Mr McGrail. We didn't</b></p> <p>5 <b>exchange messages anything like as</b></p> <p>6 <b>frequently as he exchanged with other</b></p> <p>7 <b>parties.</b></p> <p>8 Q. Yes, but what I am trying to establish is</p> <p>9 whether it is likely that within those gaps</p> <p>10 there was work device communication or that</p> <p>11 there was no WhatsApp communication at</p> <p>12 all. And I am asking you from recollection</p> <p>13 whether you are able to assist and I do not</p> <p>14 know whether you are.</p> <p>15 <b>A. I don't have access to my work device, so</b></p> <p>16 <b>therefore I can't answer that question.</b></p> <p>17 Q. We can see that you messaged Mr</p> <p>18 McGrail's personal number from your</p> <p>19 personal number on Operation Delhi matters</p> <p>20 both before 12 May, so for example, 30 April</p> <p>21 as you pointed out, and after 12 May, for</p> <p>22 example, 23 May, 8 June. So why would you</p> <p>23 have switched to your work numbers during</p> <p>24 that three week period?</p> <p>25 <b>A. I don't know that I did switch to my work</b></p> <p style="text-align: center;">Page 198</p>	<p>1 Q. So why on this occasion --</p> <p>2 MR CHAIRMAN: What is more messing</p> <p>3 him, Mr McGrail, on his personal phone,</p> <p>4 because this must have been messaged to him</p> <p>5 on his work phone as well.</p> <p>6 <b>A. Yes.</b></p> <p>7 MR SANTOS: Yes. (To the witness) So my</p> <p>8 question is: you felt perfectly comfortable</p> <p>9 sending Operation Delhi related messages</p> <p>10 about live investigatory events previously</p> <p>11 from personal to personal. So, why the</p> <p>12 sudden switch to work?</p> <p>13 <b>A. Well, I don't know that it was a sudden</b></p> <p>14 <b>switch. As I said, I don't know what other</b></p> <p>15 <b>messages were sent on the work device? I</b></p> <p>16 <b>think Mr McGrail and Mr Ullger mentioned</b></p> <p>17 <b>before that the SMT work -- the SMT Group</b></p> <p>18 <b>chat was only on the work device, so we</b></p> <p>19 <b>must have been using that device frequently,</b></p> <p>20 <b>if only for that purpose. But I don't know</b></p> <p>21 <b>what other messages were sent there.</b></p> <p>22 Q. The government parties make the point</p> <p>23 that because your counsel emphasised the</p> <p>24 disclosure failures of other parties, this</p> <p>25 implied that you had disclosed all relevant</p> <p style="text-align: center;">Page 200</p>

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<p>1 communications and evidence. Do you 2 maintain that you have disclosed all relevant 3 communications and evidence? 4 <b>A. I have endeavoured to disclose 5 everything that I had in my possession and 6 took great care in making sure that it was 7 disclosed.</b> 8 Q. Did it occur to you at any point during 9 the main Inquiry hearing and when great 10 emphasis was being placed on an absence of 11 WhatsApps from other CPs, that there were 12 also gaps in the WhatsApps which you had 13 disclosed through the Inquiry? 14 <b>A. I don't think that there were gaps in the 15 messages that I disclosed.</b> 16 Q. In June 2023, you agreed an order with 17 the RGP for disclosure of data from them. 18 Why did you not seek disclosure of data from 19 your work phone as part of that order? 20 <b>A. I was asked in that very long letter from 21 Attias and Levy for a number of things. The 22 most onerous of them was details of all 23 meetings that I had held with, I think 12 or 24 13 people. In order to deal with that and to 25 prepare my statement, I needed to have</b></p> <p style="text-align: center;">Page 201</p>	<p>1 <b>from 3 or 4 in the morning when we came 2 down. And I had mentioned the issue about 3 corporate manslaughter, principally because 4 we were dealing with a situation where there 5 was a death of two individuals following 6 police contact, and that death appeared to 7 have taken place out of jurisdiction. So we 8 had to find some means to be able to 9 investigate it in this jurisdiction. And 10 manslaughter, corporate manslaughter, was 11 one of the offences that straddled that 12 difficulty in jurisdiction.</b> 13 Q. So had you floated the potential corporate 14 manslaughter with Mr McGrail before 9 a.m. 15 when that message was sent? 16 <b>A. I don't know what time it was mentioned. 17 As I say, we'd been up since 3 or 4 that 18 morning.</b> 19 Q. Well, you must have, if he is referring to 20 it in a message at 9 a.m. 21 <b>A. Yes, we must have done, but I can't 22 remember what time we mentioned it -- I 23 mentioned it.</b> 24 Q. Did Mr McGrail assert himself as he said 25 he had in that message?</p> <p style="text-align: center;">Page 203</p>
<p>1 <b>access to my Outlook calendar and to my 2 emails, neither of which I had access to. And 3 that is what resulted in the application to 4 attend New Mole House to do it. The 5 WhatsApps -- I knew that I had all my 6 WhatsApps. It did not occur to me to think 7 about work WhatsApps. The bulk of the 8 work was in those meetings and files that 9 were held on RGP servers.</b> 10 Q. Can I ask you now to turn to E502, 11 please? This is a message exchange which 12 we visited a couple of times already and at 13 the top of the page and it is a message 14 exchange between Mr McGrail and Mr 15 Ullger and it is where he says -- Mr McGrail 16 says, "(Spanish) I swear I am going to hit 17 somebody. Nolan, Paul, El Paul are already 18 talking of potential corporate manslaughter. 19 Etcetera. I really had to assert myself here." 20 This is at 9, just after 9 a.m. on the morning 21 of the incident at sea. Do you recall the 22 conversation that that message appears to be 23 referring to. 24 <b>A. It was not a specific conversation. We 25 were in meetings for the whole of that day</b></p> <p style="text-align: center;">Page 202</p>	<p>1 <b>A. He was not receptive to the -- to the 2 suggestion that there might be a corporate 3 manslaughter or mans... I do not know if I 4 said "corporate manslaughter". I said a 5 manslaughter offence.</b> 6 Q. In what way did he express his lack of 7 receptiveness? 8 <b>A. I think he explained it this morning when 9 he said about (Spanish)</b> 10 Q. Just for the Chairman's benefit. That is 11 Spanish colloquialism, which is looking for 12 the fifth leg of -- 13 <b>A. Leg of the cat.</b> 14 Q. -- the cat's fifth leg, which means over- 15 complicating matters. Is that what he 16 accused you of doing? 17 <b>A. Yes.</b> 18 Q. E629, please. This is another reference to 19 involuntary manslaughter that takes place 20 another -- sometime later, actually. It is 21 about six weeks after the incident at sea. 22 <b>THE COMMISSIONER:</b> Everyone says this 23 is about something completely different, do 24 they not? 25 <b>MR SANTOS:</b> Yes. What I am focusing on</p> <p style="text-align: center;">Page 204</p>

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<p>1 is the reference to Mr Richardson and the 2 involuntary manslaughter. It seems to still be 3 on Mr McGrail's mind. (To the witness) 4 And my question to you is: had you had 5 further discussion about manslaughter with 6 Mr McGrail, or was it purely on 8 March? 7 <b>A. I can't say, but I seem to remember that 8 when the Metropolitan Police came over, 9 they formed the same view as I had and were 10 pursuing that line, at least for some period of 11 time.</b> 12 Q. There is a reference to you being "buddy 13 buddy "with the Stipendiary magistrate. Do 14 you agree with that characterisation? 15 <b>A. It is not the words that I would use, but 16 we are friends, yes.</b> 17 Q. And Mr Ullger says, "Indeed too close to 18 him." Do you agree that you were too close 19 to him? 20 <b>A. No, I don't agree with that.</b> 21 Q. How would you describe your 22 relationship with him? 23 <b>A. We became friends quite some time ago 24 when I was his Coroner's Officer for a 25 sudden death, which coincidentally resulted</b></p> <p style="text-align: center;">Page 205</p>	<p>1 THE CHAIRMAN: So, you think he 2 declined? 3 <b>A. Yes.</b> 4 MR SANTOS: Did he give any reasons for 5 it? 6 <b>A. No, I didn't know what the meeting was 7 in relation to. If you see from the message 8 there, he says that he wanted a meeting. I 9 said I'd agree to make it. He said what it 10 was in relation to but didn't go into any detail 11 and I didn't think it was my place to ask.</b> 12 Q. In evidence yesterday, Mr Ullger referred 13 to some meetings of the SMT after 12 May 14 where there were discussions as to concerns 15 about the Chief Minister interfering in the 16 Operation Delhi investigation. Do you recall 17 any such meetings? 18 <b>A. There were a number of meetings. In 19 fact, at one point they were almost daily. 20 after 12 May. They principally concerned the 21 dressing down that Mr McGrail had received 22 after he met with the Chief Minister and the 23 Attorney General, and the meetings that we 24 had with those gentlemen on the 13th, 15th 25 and 20th.</b></p> <p style="text-align: center;">Page 207</p>
<p>1 <b>in a -- it was another issue concerning 2 manslaughter and that there was a unanimous 3 verdict of unlawful killing and we worked 4 together extensively for that, me as his 5 Coroner's officer, and the friendship 6 developed thereon.</b> 7 Q. Can we now go to C7006, please? This is 8 on 23 May. Back to the messages between 9 you and Mr McGrail. This is on the 23 May, 10 2020. I just want to focus on the ones at 9.20 11 p.m. Mr McGrail messages you. "Paul, can 12 you arrange a meeting with Charlie for 13 Tuesday?" And then you said, "Wow, was 14 just about to ask how you were. Yes, I can. 15 After court, around 3? Do you want me to go 16 with you?" And he says, "Yes, that would be 17 good. Ta." "My privilege too. How are 18 you?" And then he says it is because of a 19 convo I had with my lawyers, an opinion that 20 I would want to share with him." "Okay." 21 "Okay. Thanks for arranging." Did you 22 arrange such a meeting? 23 <b>A. From memory, I think I asked Mr Pitto 24 whether he would agree to meet and I think 25 he declined.</b></p> <p style="text-align: center;">Page 206</p>	<p>1 Q. Did you take any minutes of those 2 meetings? 3 <b>A. No. I think Mr McGrail mentioned 4 before, these weren't minuted meetings. 5 These were updates. There were briefings on 6 where we were, how far we'd got. These 7 were not minuted meetings.</b> 8 THE CHAIRMAN: Or entry in your 9 daybook? 10 <b>A. There are entries in my daybook sir, if we 11 go to my daily daybook, for example, on 22 12 May, which is when the Commissioner was 13 invited to retire, there is an extensive entry in 14 my daybook there which covers that meeting.</b> 15 THE CHAIRMAN: That was the meeting? 16 Yes. On the 22nd. 17 <b>A. That is correct.</b> 18 MR SANTOS: Was there any mention in 19 those meetings of alleged interference by the 20 Attorney General and the DPP? 21 <b>A. There was definitely discussion about 22 how we felt that we were being moved away 23 from our intended course of action.</b> 24 Q. Just bear with us one minute. We are just 25 trying to locate that daybook entry and give</p> <p style="text-align: center;">Page 208</p>

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<p>1 you the opportunity to --</p> <p>2 MR GIBBS: B5757.</p> <p>3 MR SANTOS: B5757.</p> <p>4 MR GIBBS: And attached to that, B5511.</p> <p>5 MR SANTOS: Thank you very much, Mr</p> <p>6 Gibbs.</p> <p>7 MR GIBBS: Might I just caution, just</p> <p>8 perhaps to spare... Because of lawyers who</p> <p>9 are present in the room who may have been</p> <p>10 mentioned, that we do you not -- we would</p> <p>11 be cautious about how far in the entry you go</p> <p>12 on the screen.</p> <p>13 MR SANTOS: I think I will just... I will</p> <p>14 read the original here. 5757. (To the witness)</p> <p>15 Is this the one that you were referring to, Mr</p> <p>16 Richardson?</p> <p>17 <b>A. It is.</b></p> <p>18 Q. And this is a reference at 9.50 to COP --</p> <p>19 Commissioner of Police -- a letter inviting to</p> <p>20 retire. Loss of confidence HE and CM --</p> <p>21 <b>A. Main.</b></p> <p>22 Q. "Maine collision." Thank you.</p> <p>23 "Collision at sea. HMIC. Serious concerns.</p> <p>24 Why not?" Is that the meeting? Is that the</p> <p>25 end of the note of the meeting?</p> <p style="text-align: center;">Page 209</p>	<p>1 MR GIBBS: We do, at 5511.</p> <p>2 THE CHAIRMAN: 5511. Thank you.</p> <p>3 (15.36)</p> <p>4 <b>A. Could we go up, please? (After a pause)</b></p> <p>5 <b>A bit further. Can you stop there? (After a</b></p> <p>6 <b>pause) And a bit further. (After a pause)</b></p> <p>7 <b>And further. Now, there is no specific</b></p> <p>8 <b>reference for interference there by any party.</b></p> <p>9 <b>There is concern issued, expressed by Mr</b></p> <p>10 <b>Galliero when he called to say that he felt</b></p> <p>11 <b>that the widening of scope of the</b></p> <p>12 <b>investigation seemed to be causing concern</b></p> <p>13 <b>to, I forget what the words are, it is two</b></p> <p>14 <b>screens up. Here. In fact, it says PC, which</b></p> <p>15 <b>is Mr Galliero referring to Mr Caruana, that</b></p> <p>16 <b>the widening of scope of the investigation is</b></p> <p>17 <b>clearly causing them concerns not discussed.</b></p> <p>18 MR SANTOS: Yes, but the reason why</p> <p>19 we're here is because there was a suggestion</p> <p>20 that there was a minute of a meeting where</p> <p>21 concerns were expressed about those 13th,</p> <p>22 15th and 20th meetings, but there is reference</p> <p>23 to any of those meetings in this day book</p> <p>24 entry, is there?</p> <p>25 <b>A. No, as I said, these were not minuted</b></p> <p style="text-align: center;">Page 211</p>
<p>1 <b>A. No, during that meeting I had the call</b></p> <p>2 <b>from James Gaggero.</b></p> <p>3 Q. So should we jump over the call from</p> <p>4 James Gaggero?</p> <p>5 MR GIBBS: It is the next call.</p> <p>6 MR SANTOS: Yes. I am grateful for the</p> <p>7 care -- for the caution, but I think you can</p> <p>8 jump over that because... (to the witness)</p> <p>9 Well, can I ask you, is there anything else in</p> <p>10 this entry that refers to --</p> <p>11 THE CHAIRMAN: -- the content of the</p> <p>12 meeting?</p> <p>13 MR SANTOS: -- the content of the meetings</p> <p>14 about what we are discussing rather than. Mr</p> <p>15 Gaggero?</p> <p>16 <b>A. I am sorry, it has flown past my screen</b></p> <p>17 <b>and I haven't had a chance to read it.</b></p> <p>18 Q. Of course. Can we...</p> <p>19 <b>A. Maybe we can just go to the top and let</b></p> <p>20 <b>me read it.</b></p> <p>21 Q. Can we go to the top and then perhaps</p> <p>22 you can direct Mr Triay as necessary.</p> <p>23 <b>A. Just stay there, please.</b></p> <p>24 THE CHAIRMAN: We have this typed</p> <p>25 somewhere, do we?</p> <p style="text-align: center;">Page 210</p>	<p>1 <b>meetings. These are notes that I made myself</b></p> <p>2 <b>as my own notes. They weren't notes of a</b></p> <p>3 <b>minute. They weren't notes intended to be</b></p> <p>4 <b>used as minutes.</b></p> <p>5 THE CHAIRMAN: What were they</p> <p>6 intended to be used for?</p> <p>7 <b>A. This was my record of what we discussed</b></p> <p>8 <b>during that meeting and in the middle of that</b></p> <p>9 <b>meeting, Mr Galliero called unannounced</b></p> <p>10 <b>and I made a note in my daily day book of</b></p> <p>11 <b>what he was telling me at that time.</b></p> <p>12 MR SANTOS: Can we go up to 5755,</p> <p>13 please? That is your day book entry for the</p> <p>14 meeting itself of 15th May, 2020.</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. And then, I think, on the -- I do not think</p> <p>17 we have one for you.</p> <p>18 THE CHAIRMAN: This is partly my fault.</p> <p>19 We were getting sidetracked and so that was</p> <p>20 fully canvassed last time.</p> <p>21 MR SANTOS: Yes. Well, I have no further</p> <p>22 questions, Mr Richardson.</p> <p>23 <b>A. Thank you.</b></p> <p>24 THE CHAIRMAN: I think, Mr Cruz, you</p> <p>25 have generously been given five minutes. Is</p> <p style="text-align: center;">Page 212</p>

<p>1 that sufficient?  2 MR CRUZ: There are no questions, sir. It is  3 too much.  4 THE CHAIRMAN: Yes. Thank you.  5 Cross-examined by SIR PETER CARUANA  6 Q. Mr Richardson, you will be pleasantly  7 surprised, I hope, to learn that I only have  8 three matters to put to you, all shortish.  9 <b>A. Thank you.</b>  10 THE CHAIRMAN: So, within the 20  11 minutes allowed.  12 SIR PETER CARUANA Even I am capable,  13 even within 20 minutes, of just three short  14 matters.  15 THE CHAIRMAN: All right, excellent.  16 SIR PETER CARUANA: So you, Mr  17 Chairman, should not be so surprised. On  18 interference, just to take up this last point,  19 my learned friend has shown you this minute  20 to the effect that there is no reference in this  21 day book entry or minute note or whatever.  22 It does not matter to me what it is.  23 <b>A. It matters to me, sir.</b>  24 Q. Yes, about it. But, as to whether there  25 was interference or not on the 13th, 15th and</p> <p style="text-align: center;">Page 213</p>	<p>1 <b>we were being moved from a position that</b>  2 <b>we were quite strong on to a separate</b>  3 <b>position.</b>  4 Q. I see. So you are not suggesting that the  5 Chief Minister interfered with your  6 investigation?  7 <b>A. I don't know what was happening behind</b>  8 <b>the scenes. I know now a lot more than I</b>  9 <b>knew at that time, Sir Peter.</b>  10 Q. You were the senior investigation officer.  11 You did not feel that your investigation was  12 being interfered with, at least insofar as you  13 were aware?  14 <b>A. I had concerns, yes, about where we were</b>  15 <b>being steered towards.</b>  16 Q. You cannot have concerns about  17 something you do not know, can you?  18 <b>A. Well, I did know that when we started the</b>  19 <b>meeting process on 13th May 2020, we had a</b>  20 <b>very clear plan of action and by the time we</b>  21 <b>got to the 20th, it was completely different.</b>  22 Q. But still the perception was not important  23 enough to record in your day book?  24 <b>A. Nothing - not important enough for me to</b>  25 <b>make a full record, yes. I think, sir, I think</b></p> <p style="text-align: center;">Page 215</p>
<p>1 20th, we are all agreed that the Chairman has  2 got the transcript, he has got the tape  3 recordings and he can form his own views.  4 So I am only interested in the perception in  5 the RGP, not whether in fact there was with  6 you. If there had been a perception in the  7 RGP as widespread at all, that was being  8 discussed almost at daily meetings, would it  9 not be in somebody's day book?  10 <b>A. It's hard to say. These weren't minuted</b>  11 <b>meetings, as we've said. These were - it was</b>  12 <b>a very live situation and it was a very fluid</b>  13 <b>situation. This is at the same time as we</b>  14 <b>were dealing with the Section 15 request,</b>  15 <b>which meant that I was dealing a huge</b>  16 <b>amount of time involved in preparing that.</b>  17 Q. You were the senior investigating officer  18 of DENI. Is political interference at the  19 highest level with an investigation which you  20 are conducting not important enough a matter  21 to be reflected in your day book?  22 <b>A. Of course it is.</b>  23 Q. But it is not.  24 <b>A. I haven't said that there was political</b>  25 <b>interference. What I've said is that I felt that</b></p> <p style="text-align: center;">Page 214</p>	<p>1 <b>it's important to know that at that point, by --</b>  2 <b>certainly by 15th May, I was aware that Mr</b>  3 <b>McGrail was recording the meetings, so there</b>  4 <b>was a full record of what was being said.</b>  5 Q. That is the all-good-ish as opposed to the  6 all-short-ish, which I am trying to stick to.  7 Okay. Can I turn it up very quickly, E849?  8 E849, very quickly, do you recall that when  9 you eventually retired yourself from the  10 force, coincidentally in June the following  11 year to Mr McGrail, 2021, that Mr Roca sent  12 you at 15.13 -- a bit further down. There.  13 Congratulations, do you see?  14 <b>A. Yes, I can see it.</b>  15 Q. Mr Roca, the DPP, says to you,  16 "Congratulations on your retirement, my  17 friend. It's been a pleasure working with  18 you, albeit not for long, best. Christian."  19 And do you see your reply at 16.21, "Many  20 thanks, Christian. I really enjoyed working  21 with you too. I will always be grateful for  22 your advice and support"?  23 <b>A. Yes, I can see that.</b>  24 Q. That does not suggest that you were  25 harbouring any feeling that he had interfered</p> <p style="text-align: center;">Page 216</p>

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<p>1 with your investigation improperly.  2 <b>A. I felt that Mr Roca was on our side.</b>  3 Q. I see. Well, the reason why I am asking  4 you this question is because your counsel, Mr  5 Gibbs, in closing said, "Further, the chairman  6 may find that the behaviour and thinking of  7 the Hassans individuals, both during the  8 Delhi events and after the 12th May police  9 action, go a long way to explain the  10 behaviour of Mr Yamas and Mr Roca in the  11 meetings of the 13th, 15th and 20th." Do  12 you think that submission reflects the  13 evidence that you have just given now about  14 Mr Roca?  15 <b>A. Well, I can't remember what Mr Gibbs  16 said on my behalf on that entry, other than  17 what you've just read now, but what we're  18 talking about here is when I was retiring. It  19 was a message, a polite message exchanged  20 between the two of us, somebody I  21 considered a friend, and at that time I hadn't  22 had access to seeing all the data that I've  23 seen since then.</b>  24 Q. But does it matter? You have just said in  25 oral evidence here on oath that you regarded</p> <p style="text-align: center;">Page 217</p>	<p>1 time are you thinking of tweaking the report?  2 I intend to go in at 10 to make sure that there  3 is nothing compromising in the files. If we  4 finish before you come, we won't be there to  5 assist you" and then at 19.23, the following  6 day, down below on the 25th, at 19.23, Mr  7 Field says to you, "Just checked the timeline,  8 sent it back to them with additions, but it is  9 now looking more along the lines that you  10 wanted." Can I just ask you whether you can  11 help the inquiry with what Mr Field, why  12 does Mr Field say that you are going to  13 tweak the report? Do you remember any  14 tweaking that you might have done?  15 <b>A. Yes, I think I spent the whole day going  16 through the report. The tweaking would have  17 been to make sure that the paragraphs  18 matched the references that were there, that  19 the language was correct, that it was saying  20 what it was intended, that what they intended  21 to say, that it was accurate, that what was  22 being said. Mr Field was drafting it with,  23 from memory, an inspector and a sergeant,  24 and I was assisting Mr McGrail in making  25 sure that the Section 15 report was as</b></p> <p style="text-align: center;">Page 219</p>
<p>1 Mr Roca as your ally in the investigation. It  2 is nothing to do with whether you remember  3 or not what Mr Gibbs said later, is it?  4 <b>A. The statement that I've made there, I  5 agree with. I'm grateful for his advice and  6 support and wish him the best of luck.</b>  7 Q. Okay, thank you. So, just the final issue I  8 would like to cover with you, it relates to the  9 Section 15 report. Nothing untoward in the  10 question, do not worry, it is just for my own  11 information. Did you play a leading role in  12 assisting, in preparing the Section 15 report  13 for Mr McGrail? I seem to recall your  14 evidence was yes, but I could be wrong.  15 <b>A. I was response -- I was the supervisory  16 officer for John Field, who was leading a  17 small team that was drafting up the report  18 and preparing all the exhibits.</b>  19 Q. Okay. So, could we just turn up E850? I  20 am interested in the WhatsApp exchange  21 between you and Mr Field at 21.45, so a few  22 lines down from the top of the page. "Boss,  23 what time," do you see that?  24 <b>A. Yes, I can see it.</b>  25 Q. So, Mr Field says to you, "Boss, what</p> <p style="text-align: center;">Page 218</p>	<p>1 <b>accurate as could be.</b>  2 Q. So, on the basis of that answer, reviewing  3 would have been better than tweaking, the  4 word?  5 <b>A. It's Mr Field's word, not my word. I  6 think he's saying tweaking because he didn't  7 want me to think that I was changing what  8 was written, just making a minor change.</b>  9 Q. I see, okay. What do you think, if you  10 know, Mr Field might have meant by  11 checking that he was checking to make sure  12 that there was nothing compromising in the  13 files?  14 <b>A. It would be speculation, but maybe some  15 bloopers, something that was obviously  16 wrong that shouldn't have been there.</b>  17 Q. Nothing compromising? What does the  18 word compromising in the files normally  19 suggest to you?  20 <b>A. Well, compromising would suggest that  21 there's something that shouldn't be there that  22 might have a negative effect.</b>  23 Q. Not something compromising to  24 somebody?  25 <b>A. I don't know what exactly he meant. I do</b></p> <p style="text-align: center;">Page 220</p>

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<p>1 -- I can say that the use of language isn't 2 always as precise as it could be, as we've 3 seen. 4 Q. So, your evidence is that make sure there 5 is nothing compromising the file means make 6 sure there is nothing in the file that should 7 not be there? 8 <b>A. Making -- something stupid, yes, 9 something stupid.</b> 10 Q. So, these are files that were going to be 11 sent to the Chief Minister as attachments to 12 the Section 15 report? 13 <b>A. Yes, although I'm not sure that I read 14 through all the files. I think I read through 15 the report, not the files themselves.</b> 16 Q. So, making sure there is nothing 17 compromising in the files, by your definition, 18 would mean making sure there is nothing in 19 the files that we do not want the Chief 20 Minister to see? 21 <b>A. No, something that was left in there from 22 some other investigation or something that 23 was irrelevant or not important.</b> 24 Q. You think that is the natural meaning? 25 <b>A. No, I don't think it's the natural meaning.</b></p> <p style="text-align: center;">Page 221</p>	<p>1 <b>A. It's just above the screen that was on, Mr 2 Wagner.</b> 3 Q. Is it just further up? Further up, I think. 4 Maybe not. It is 03 14, it is at the bottom. 5 There it is, sorry, thank you. Excuse me. "Hi 6 Ian, I hope you're okay." 7 8 <b>A. Sorry, I can't. I can't find it. 9 (15.50)</b> 10 Q. So it's, its where the cursor is. You text 11 Ian at 3.14 in the morning on the 23rd, so the 12 day after the GP letter - effectively the day 13 of the GP letter if this is your evening. "Hi 14 Ian, hope you're okay. It's been a tough day, 15 the worst in my 34 years service. It's a sad 16 day for policing but a proud day for the 17 police..." What did you mean by this text? 18 <b>A. Exactly what's said there.</b> 19 Q. Why did you think it was a sad day for 20 policing? 21 <b>A. Because the Commissioner of Police had 22 been put in a position where he had to leave 23 when he didn't want to leave and we felt 24 abandoned and all of the senior management 25 were very upset by the whole thing. I must</b></p> <p style="text-align: center;">Page 223</p>
<p>1 <b>As I said, I don't think I actually went 2 through the files themselves. I know that 3 there was a large number of files, but I don't 4 think that I went through them.</b> 5 THE CHAIRMAN: That's a process 6 everyone goes through before submitting a 7 report. 8 SIR PETER CARUANA: What, making 9 sure there is nothing compromising in the 10 files? 11 THE CHAIRMAN: Well, to make sure that 12 there is no confidential material or -- 13 SIR PETER CARUANA: Yes, but that is not 14 what it says. That is all. I have no further 15 questions for you. Thank you. 16 Cross-examined by MR WAGNER 17 Q. Good afternoon, Mr Richardson. 18 <b>A. Mr Wagner.</b> 19 Q. Sorry, I have managed to not have the 20 reference. I am going to ask you about a text 21 message, and I hope you do not mind me not 22 showing it to you. I will read the whole thing 23 out, and if someone can find it in the 24 meantime. It is 23rd May 2020, 03.14 in the 25 morning.</p> <p style="text-align: center;">Page 222</p>	<p>1 <b>have woken up at three o'clock in the 2 morning thinking about it.</b> 3 Q. Was it your view that the two reasons that 4 were given in the GPA letter on that day, the 5 incident at sea and the HMIC report, were the 6 actual reasons why this was all happening? 7 <b>A. It didn't make sense that those were the 8 reasons why this was happening.</b> 9 Q. What did you think it was? 10 <b>A. I thought it was to do with Delhi.</b> 11 Q. To do with Delhi. 12 <b>A. Although I was told that it wasn't 13 mentioned in the correspondence.</b> 14 Q. Was that why you thought it was a sad 15 day for policing but a proud day for the 16 police? 17 <b>A. Yes.</b> 18 Q. Would you therefore characterise this as 19 being related to your concerns about 20 interference? 21 <b>A. Yes.</b> 22 Q. The second of three areas. E844, please, 23 and this is a message on 4 June at 16.10. 24 These are messages between you and Mr 25 Rocca. At 16.10 he says: "Emailed you</p> <p style="text-align: center;">Page 224</p>

56 (Pages 221 to 224)



<p>1 back. I'm a bit fed up with them dictating 2 terms, to be honest." I think he is talking 3 about Sands. You say: "Yeah, I agree. It's 4 weeks down the line. We have no account 5 and still not opened the devices handed over 6 voluntarily. Warrants expire Sunday and I 7 get the impression we're being strung along. 8 Also mindful of not pressing the issue too 9 much for obvious reasons. Don't know if I 10 copied you into reply to CB." What did you 11 mean there: "...I get the impression we're 12 being strung along. Also mindful of not 13 pressing the issue too much for obvious 14 reasons." 15 <b>A. I got the impression that we were being 16 strung along by Hassans because we were 17 told that Mr Levy was unlikely to come in for 18 interview and therefore the best way to deal 19 with this was to invite him to give a 20 statement, or we agreed that the best way for 21 him to do it was to give a statement. We 22 agreed on that. The statement then became 23 not a voluntary statement but a witness 24 statement which we had to correct, and then 25 we were waiting for the statement and there</b></p> <p style="text-align: center;">Page 225</p>	<p>1 as you were concerned. 2 <b>A. Yes.</b> 3 Q. And would you describe that as a 4 concern? 5 <b>A. Yes, it was a concern.</b> 6 Q. Finally, I want to ask you, please, about 7 the note of the meeting in B6060. So this is a 8 call that took place on 27 May 2020 and the 9 note is Mr Baglietto's. It is a note of a call 10 that they had. If we can just go further down 11 to the typed notes, it is easier to read. First of 12 all, have you seen this note? 13 <b>A. I think I saw it at some point after I gave 14 evidence.</b> 15 Q. It was disclosed later on after Mr 16 Baglietto's evidence and after yours. 17 THE CHAIRMAN: Does this arise after the 18 new material? 19 MR WAGNER: The DPP has put in a 20 witness statement in the bundle explaining 21 this document, so yes. 22 SPEAKER: No, it does not. 23 SPEAKER: There is a statement from the 24 DPP in the bundle. 25 THE CHAIRMAN: Yes.</p> <p style="text-align: center;">Page 227</p>
<p>1 <b>were a number of dates that were agreed that 2 passed and we weren't making any progress.</b> 3 Q. And what did you mean: "...mindful of 4 not pressing the issue too much for obvious 5 reasons"?" 6 <b>A. Because the way to press the issue was to 7 say: If we're not going to get your statement 8 we're going to interview you under caution, 9 and if we're going to interview you under 10 caution the only way to do that, if he 11 wouldn't attend voluntarily, was to effect an 12 arrest.</b> 13 Q. So is that the obvious reasons, that you 14 did not want to arrest him? 15 <b>A. Yes.</b> 16 Q. Why not? Why was it obvious? 17 <b>A. Because we were all trying very hard 18 with a situation that didn't result in that. 19 There was suggestion in those meetings that 20 we wouldn't be able to cope with the 21 outcome of those meetings. There was talk 22 of ten QCs flying over and that we needed to 23 avoid this situation.</b> 24 Q. So that obvious reasons is connected to 25 what had been happening in meetings as far</p> <p style="text-align: center;">Page 226</p>	<p>1 MR WAGNER: It is a brand new statement. 2 It was only disclosed a month ago, I think. 3 THE CHAIRMAN: Okay. 4 MR WAGNER: (To the witness) Were you 5 aware that the DPP and Mr Baglietto had 6 spoken in this way when you were in 7 discussions with the DPP? 8 <b>A. I was aware that the DPP was in 9 discussion with Mr Baglietto about --</b> 10 THE CHAIRMAN: This is Mr Baglietto's 11 note, is it not? Not the DPP's. 12 MR WAGNER: No, that is right. 13 THE CHAIRMAN: So it should be read 14 subject to that serious caution. 15 MR WAGNER: Yes. I said it was Mr 16 Baglietto's note but bear in mind it is Mr 17 Baglietto's note. (To the witness) I just 18 want to ask you about - there is a part there: 19 "CR does not read these texts as maliciously 20 of the others, and that is text from Mr Levy, 21 but understands there are some questions to 22 be answered. He thinks Mr Levy has clear 23 answer. Not involved in details of the many 24 deals he'd asked to take part in. Finger in 25 every pie." Just assuming this is accurate --</p> <p style="text-align: center;">Page 228</p>

57 (Pages 225 to 228)

<p>1 THE CHAIRMAN: Well, no, I do not think 2 that assumption should be made. 3 MR WAGNER: (To the witness) Just taking 4 it at face value, if the DPP had said that to 5 Mr Baglietto, is that something that would 6 cause you concern? 7 <b>A. Yes.</b> 8 Q. Why? 9 <b>A. Because he seems to be underplaying the 10 strength of our hand with what was then the 11 defendant's legal counsel.</b> 12 Q. Just one other part which is a little bit 13 further down, please. After it says "turn 14 page", Mr Baglietto said this does not mean 15 Chief Minister, it is a typo and it means CR, 16 Christian Rocca. "He said that he did not 17 think enough evidence on J at moment to go 18 to jury, still had to tick box to pursue line of 19 enquiries otherwise risk abuse arguments." 20 Would that cause you any concern? 21 <b>A. Yes.</b> 22 Q. For the same reason. 23 <b>A. For exactly the same reasons, yes. We 24 were yet to interview Mr Levy at that stage.</b> 25 Q. If someone like the DPP had said to the</p> <p style="text-align: center;">Page 229</p>	<p>1 Questioned by MR GIBBS 2 Q. At the time when you left the force, did 3 you know what had been going on behind the 4 scenes? 5 <b>A. No.</b> 6 Q. When was it that you learned that Mr 7 Picardo, the Chief Minister and one-time 8 partner of Hassans, had been meeting 9 privately with the suspect, Mr Levy, senior 10 partner of Hassans, immediately after the 11 attempt to execute the warrant? 12 <b>A. During this hearing, this inquiry.</b> 13 Q. If you had known that at the time, would 14 you have recorded it in your day book? 15 <b>A. Yes.</b> 16 Q. If you had known of anything like that at 17 the time, would you have recorded it in your 18 day book? 19 <b>A. Yes.</b> 20 Q. And why? 21 <b>A. Because it was important to record those 22 matters, as the thousands of other things that 23 I've recorded.</b> 24 Q. During the course of Mr Picardo's 25 evidence to the inquiry he mentioned in</p> <p style="text-align: center;">Page 231</p>
<p>1 lawyer of the suspect: "We actually do not 2 think there is much in the case", could that 3 impact the way that they approached the 4 interview with the police? 5 <b>A. Yes.</b> 6 MR WAGNER: Thank you; I have no 7 further questions. 8 THE CHAIRMAN: I think the DPP's 9 account of this conversation should go in as 10 well. 11 MR SANTOS: I think it is fair to record that 12 the DPP's affidavit, the DPP's case is that 13 everything below that line is not part of the 14 conversation. 15 THE CHAIRMAN: It is Mr Baglietto's 16 comment that is not - 17 MR SANTOS: Yes. But I rose for a 18 different reason, which is I wonder whether 19 we are due a break just before -- I mean, the 20 witness has indicated he is okay. 21 THE CHAIRMAN: (To the witness) Are 22 you okay? 23 <b>A. I'm fine, thank you, sir.</b> 24 MR SANTOS: Unless the transcriber is 25 asking for a break, then we will proceed.</p> <p style="text-align: center;">Page 230</p>	<p>1 explanation of a text message that he had 2 sent that he had been drawing to the attention 3 of Mr Baglietto the provision under which 4 you, the senior officer in Delhi, might be 5 deprived of your pension. Did you know that 6 at all? 7 <b>A. No, I did not.</b> 8 Q. If you had known that at the time, would 9 you have been concerned? 10 <b>A. I would have been extremely concerned.</b> 11 Q. Would you have been surprised? 12 <b>A. Yes.</b> 13 Q. Why would you have been surprised 14 about that? 15 <b>A. Well, for the - I think it's so obvious: that 16 if I'd known that the Chief Minister was 17 advising the lawyer representing another 18 lawyer of which they were all partners in the 19 same firm, of a way to deprive me of my 20 pension for doing my job in investigating an 21 allegation of hacking of the national security 22 system of Gibraltar.</b> 23 Q. You were asked by the inquiry quite 24 properly to provide a statement - that was 25 back in 2022.</p> <p style="text-align: center;">Page 232</p>

<p>1 <b>A. Correct.</b></p> <p>2 Q. And you needed to refresh your memory,</p> <p>3 because you had by then retired, of the</p> <p>4 contemporaneous documents to get the dates</p> <p>5 and details right before providing that</p> <p>6 statement. Is that right?</p> <p>7 <b>A. That is correct.</b></p> <p>8 Q. And were arrangements made for you to</p> <p>9 be able to inspect at least an image of your</p> <p>10 email account on the RGP server?</p> <p>11 <b>A. That is correct.</b></p> <p>12 Q. And did the inquiry themselves facilitate</p> <p>13 those arrangements?</p> <p>14 <b>A. They did.</b></p> <p>15 Q. And did you attend at RGP offices to</p> <p>16 reacquaint yourself with the documents from</p> <p>17 the time?</p> <p>18 <b>A. I did.</b></p> <p>19 Q. How many times did you go?</p> <p>20 <b>A. Ten or 11 times.</b></p> <p>21 Q. And how many tens, hundreds, whatever</p> <p>22 it is, of hours did you spend reacquainting</p> <p>23 yourself with the material with a view to</p> <p>24 providing an accurate statement about it?</p> <p>25 <b>A. Hundreds of hours.</b></p> <p style="text-align: center;">Page 233</p>	<p>1 <b>A. Yes, with 12 or 13 people.</b></p> <p>2 Q. Did you also have access to your day</p> <p>3 books, both your Delhi day book or an image</p> <p>4 of it and your year-by-year day books?</p> <p>5 <b>A. My year-by-year day books I retained</b></p> <p>6 <b>when I retired. My Delhi day book, because</b></p> <p>7 <b>it was a live investigation, I'd left with Mr</b></p> <p>8 <b>Wyan, with investigation team, and I think it</b></p> <p>9 <b>was one of the documents that was provided</b></p> <p>10 <b>to me when I was researching for the</b></p> <p>11 <b>statement.</b></p> <p>12 Q. And did you provide copies of those to</p> <p>13 the inquiry?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. Did you yourself have copies of all the</p> <p>16 emails and attachments or were you simply</p> <p>17 allowed to inspect them?</p> <p>18 <b>A. I was allowed to inspect the ones that I</b></p> <p>19 <b>could search using the search facility which</b></p> <p>20 <b>was provided, which was quite difficult, but I</b></p> <p>21 <b>wasn't allowed to print any.</b></p> <p>22 Q. Messages. You had had two telephones</p> <p>23 at the time, a work telephone and a personal</p> <p>24 telephone.</p> <p>25 <b>A. Correct.</b></p> <p style="text-align: center;">Page 235</p>
<p>1 Q. Were you able to look at or run searches</p> <p>2 through the emails on your Outlook account?</p> <p>3 <b>A. Not at the beginning, no. This wasn't a -</b></p> <p>4 <b>what was provided wasn't a link to my</b></p> <p>5 <b>previous work account. It was a standalone</b></p> <p>6 <b>computer for security reasons and it had a</b></p> <p>7 <b>backup file of Outlook and the search facility</b></p> <p>8 <b>that was provided was a little bit clumsy, it</b></p> <p>9 <b>wasn't very accurate. In fact, I think for the</b></p> <p>10 <b>first three or four, maybe fifth times that I</b></p> <p>11 <b>attended, emails weren't provided; they came</b></p> <p>12 <b>afterwards. Emails and Outlook calendars.</b></p> <p>13 Q. But after all of these attendances and</p> <p>14 these many hours of inspection, were you</p> <p>15 able to get the dates and details together for</p> <p>16 you to make the statements that you made for</p> <p>17 the inquiry?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. Also did you have access to your Outlook</p> <p>20 calendar?</p> <p>21 <b>A. As I said before, not initially but later on,</b></p> <p>22 <b>yes.</b></p> <p>23 Q. Because you had specifically been asked</p> <p>24 to deal with anything you could say about</p> <p>25 particular meetings on particular dates.</p> <p style="text-align: center;">Page 234</p>	<p>1 Q. When you retired in 2021 what happened</p> <p>2 to your work telephone?</p> <p>3 <b>A. I handed it in to - I'm pretty certain it</b></p> <p>4 <b>was the IT officer of the RGP at the time.</b></p> <p>5 Q. Did you expect that it would be wiped?</p> <p>6 <b>A. Yes, I did.</b></p> <p>7 Q. And given to somebody else?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Did you have any way of accessing</p> <p>10 retrospectively the content of that telephone?</p> <p>11 <b>A. No.</b></p> <p>12 Q. And you did not have a copy yourself.</p> <p>13 <b>A. No. I couldn't have made a backup of the</b></p> <p>14 <b>work phone even if I'd wanted to because the</b></p> <p>15 <b>work phones were set up with individual</b></p> <p>16 <b>iCloud accounts and we were not given</b></p> <p>17 <b>access to the password to access those</b></p> <p>18 <b>accounts.</b></p> <p>19 Q. In any event, as a retired officer you were</p> <p>20 no longer an officer of the RGP and had no</p> <p>21 right to access RGP material.</p> <p>22 <b>A. Correct.</b></p> <p>23 Q. You had your personal telephone there.</p> <p>24 <b>A. I did.</b></p> <p>25 Q. And did you look through that to see if</p> <p style="text-align: center;">Page 236</p>

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<p>1 there were any messages that might be 2 relevant to what you had been asked to 3 disclose to the inquiry? 4 <b>A. Yes.</b> 5 Q. And I think that Mr Triay may be able to 6 help us just by looking at the index of our 7 bundle E. Am I right in thinking that at the 8 same time in 2023 that you provided your 9 statement, you were able to send to the 10 inquiry the items 6, that is WhatsApps, 11 between yourself and Mr McGrail, although 12 it is headed as having been provided in 2024. 13 That I think was provided - am I right? - on 14 15 June 2023. 15 <b>A. That's correct.</b> 16 Q. And then if we go down the page, did you 17 also -- 18 THE CHAIRMAN: Item 10 perhaps? 19 MR GIBBS: I think item 10 came later. I 20 am going to come to that. (To the witness) 21 But the items in 2023, so long before our 22 hearing, items 23, 24 and 25, you also 23 provided your WhatsApps on your personal 24 device between yourself and Mr Rocca, 25 yourself and Mr Field and yourself and Mr</p> <p style="text-align: center;">Page 237</p>	<p>1 with that. 2 MR SANTOS: You said the inquiry 3 extended the date range that we were 4 interested in. 5 We were always interested in all relevant 6 WhatsApps, whatever date they were sent on. 7 THE CHAIRMAN: Carry on. 8 MR GIBBS: That is very helpful; thank 9 you. (To the witness) The date range. You 10 had chosen a starting date way back in 2019, 11 had you not? 12 <b>A. That's correct, yes.</b> 13 Q. And you had chosen a cut-off date of 9 14 June 2020. 15 <b>A. Correct.</b> 16 Q. And that was because? 17 <b>A. Mr McGrail left the force on that date.</b> 18 Q. And the inquiry appeared to be about the 19 reasons why -- 20 <b>A. He left prematurely.</b> 21 Q. Later the inquiry extended the date range 22 that you had chosen for yourself from 9 June 23 2020 to 30 June. 24 <b>A. That is correct.</b> 25 Q. And did you then provide those extra</p> <p style="text-align: center;">Page 239</p>
<p>1 Wyan. Is that right? 2 <b>A. That's correct. They were the people that 3 I was asked to specifically disclose 4 information with and meetings.</b> 5 Q. Just to explain what you mean by that, 6 am I right in thinking that Mr Wyan, Mr 7 Field, Mr Rocca and Mr McGrail were all 8 persons who had been named in the request 9 letter sent to you in 2022 by the inquiry? 10 <b>A. That is correct.</b> 11 Q. And, in fact, of the list of names in the 22 12 letter, those were the only ones which whom 13 you had WhatsApp messages. Is that right? 14 <b>A. I think so. I think the other people I had 15 very little contact with, or any.</b> 16 Q. And then later the inquiry extended the 17 date range that it was interested in, in having 18 WhatsApps about, so the date range you had 19 chosen was - 20 MR SANTOS: I think he never set a date. 21 MR GIBBS: No, quite. 22 MR SANTOS: The only extension is the 23 extension from the date range that Mr 24 Richardson chose for himself. 25 MR GIBBS: Quite. I am just going to deal</p> <p style="text-align: center;">Page 238</p>	<p>1 three weeks' worth? 2 <b>A. Yes, I did.</b> 3 Q. And that included, because during that 4 period Mr McGrail had got another new 5 telephone, messages sent to that new 6 telephone. 7 <b>A. That is correct.</b> 8 Q. And those I think are the items that we 9 see, sir, at perhaps 10, 11 and 12. 10 THE CHAIRMAN: Yes. 11 MR GIBBS: Thank you. (To the witness) 12 When you were asked at the end of last year 13 to look again at your WhatsApps on your 14 personal telephone with Mr McGrail and in 15 that extra period, were they all still there? 16 <b>A. Yes, they were.</b> 17 Q. So you had a personal telephone. Was it 18 an Apple telephone? 19 <b>A. Yes.</b> 20 Q. Was it the same handset that you had had 21 back in 2020? 22 <b>A. No.</b> 23 Q. Had you updated the handset or got a 24 fresh handset after 2020? 25 <b>A. Yes, I had.</b></p> <p style="text-align: center;">Page 240</p>

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<p>1 Q. In fact, had you had two fresh handsets 2 since then? 3 <b>A. Yes.</b> 4 Q. So your first replacement phone for your 5 personal telephone was in which year? Do 6 you remember? 7 <b>A. I think I changed it halfway through, or</b> 8 <b>thereabouts, in 2020. I have the date written</b> 9 <b>down somewhere.</b> 10 Q. So you get a first replacement phone, and 11 on your replacement phone were all your 12 WhatsApps from the relevant period still 13 there on your phone? 14 <b>A. Yes, otherwise I wouldn't have been able</b> 15 <b>to disclose them.</b> 16 Q. No, quite. And were you able to read 17 them all? 18 <b>A. Yes.</b> 19 Q. Had any of them disappeared or deleted 20 themselves? 21 <b>A. Not that I know of.</b> 22 Q. After that, you changed your replacement 23 phone, did you, to another phone. 24 <b>A. Yes. Last year after the inquiry had</b> 25 <b>finished I traded my phone in, in New York</b></p> <p style="text-align: center;">Page 241</p>	<p>1 <b>ones.</b> 2 Q. Good as gold. 3 <b>A. Yes.</b> 4 Q. Work phone. Your work phone you have 5 not had since you retired. 6 <b>A. That's correct.</b> 7 Q. And you volunteered I think to the 8 inquiry before you ever gave evidence, 9 through me, that the message on 12 May 10 which there has been interest in must have 11 been sent on your work phone. 12 <b>A. Yes.</b> 13 Q. And we can see, can we, from what we 14 do not have on other phones that it must have 15 been sent to Mr McGrail's work phone. 16 <b>A. I'm assuming so, yes.</b> 17 Q. And in case it matters what you said in 18 that message, do you remember what it was 19 that you said? 20 <b>A. No. I can remember what the message</b> 21 <b>was about but I can't --</b> 22 Q. What was it about? 23 <b>A. We are going in, we are going to execute</b> 24 <b>the warrant.</b> 25 Q. Why were you sending Mr McGrail a</p> <p style="text-align: center;">Page 243</p>
<p>1 <b>actually, and got another phone.</b> 2 Q. So you would then and now have a 3 replacement for your replacement personal 4 telephone. 5 <b>A. Yes.</b> 6 Q. And are all your WhatsApps from the 7 relevant time still present on the telephone? 8 <b>A. Yes, they are.</b> 9 Q. None of them has disappeared. 10 <b>A. Not that I know of.</b> 11 Q. Or vanished or chosen to delete some for 12 itself and not to delete others. 13 <b>A. Not that I know of.</b> 14 Q. So all still there. Did you, when you 15 were updating your telephone or moving 16 from one to another, have the assistance of an 17 IT department from a large corporate entity 18 or were you doing it more simply than that? 19 <b>A. No, I just went to the Apple shop and</b> 20 <b>there was an offer in trading in phones which</b> 21 <b>I didn't expect, and my wife and I both</b> 22 <b>traded in our phones. They were backed up</b> 23 <b>there and then by the person in the shop and</b> 24 <b>an hour or two hours later we were handed</b> 25 <b>our new phones after they'd wiped the old</b></p> <p style="text-align: center;">Page 242</p>	<p>1 message? 2 <b>A. Because he had asked me to let me(sic)</b> 3 <b>know just before we went into the --</b> 4 Q. Why had he asked you to let him know 5 just before you went into Hassans that you 6 were about to go into Hassans with a 7 warrant? 8 <b>A. Because he was going to brief the Chief</b> 9 <b>Minister about what we were doing, to deal</b> 10 <b>with whatever fallout came out from that.</b> 11 Q. And he had briefed the Chief Minister 12 before that. 13 <b>A. No, I don't think so.</b> 14 Q. So why did he want to brief the Chief 15 Minister at the last moment before going in, 16 as you understood it? 17 <b>A. For reasons of operational integrity.</b> 18 Q. Did the message say words to the effect 19 of: "Sir, I am going into Hassans"? 20 <b>A. It would have been words along those</b> 21 <b>lines, yes.</b> 22 Q. Or: "Sir, Mark Wyan and I are going into 23 Hassans"? 24 <b>A. Possibly.</b> 25 Q. Or: "Sir, Mark --"</p> <p style="text-align: center;">Page 244</p>

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<p>1 THE CHAIRMAN: With the warrant, which 2 you probably mentioned as well. 3 <b>A. Yes. He knew we were going with the 4 warrant. He knew beforehand.</b> 5 MR GIBBS: "Mark Wyan and I are going 6 into Hassans with the warrant." 7 <b>A. I wouldn't have said "with the warrant" 8 because it was obvious that that was the 9 reason he'd asked me to message him.</b> 10 Q. Yes, all right. In case it matters, can you 11 identify why the precise wording of that 12 message might matter? 13 <b>A. I'm sorry, I haven't got a clue.</b> 14 THE CHAIRMAN: I do not think anyone 15 has suggested that the precise wording 16 matters. The relevance is that there is a call 17 we know about and it is not in anyone's 18 record. If you are investigating and the 19 explanation given is from one work phone to 20 another. 21 MR GIBBS: Yes. (To the witness) Was it a 22 call or a message? 23 <b>A. No, it would have been a message.</b> 24 Q. Gaps. Now, we were looking in the gaps. 25 Could we go to E251, please. This is the</p> <p style="text-align: center;">Page 245</p>	<p>1 been some messages there is another gap 2 between 30 April and 22 May. 3 <b>A. Correct.</b> 4 Q. It is that last gap only so far that you have 5 been asked about but we have observed the 6 other often rather longer gaps beforehand. 7 Are you surprised that there are gaps in 8 periods when personal-to-personal is not 9 being messaged? 10 <b>A. No.</b> 11 MR SANTOS: I think if this exercise is 12 going to be done it should be done from the 13 uncurated version, because there are some 14 within those gaps, just for completeness sake, 15 which is at E264. The point is still valid but 16 it should be done - for example, there is not a 17 month's gap from 8 March until 9 April. 18 THE CHAIRMAN: I think we should have 19 the answer to this. (To the witness) What is 20 the difference between this log and the one 21 we have just been looking at? 22 MR SANTOS: One has been filtered for 23 relevance. This is the complete log. I am not 24 suggesting that there are not gaps -- 25 THE CHAIRMAN: No, no.</p> <p style="text-align: center;">Page 247</p>
<p>1 record of your personal telephone to Mr 2 McGrail's personal telephone and we can see 3 where you began in May 2019. Let us go 4 forward to 2020, please. For instance, there 5 is a gap between 24 September 19 and 18 6 February 2020 when there are no messages at 7 all between your personal telephone and Mr 8 McGrail's personal telephone. 9 <b>A. Yes, I can see that.</b> 10 Q. A gap of five months nearly. Then there 11 is one message on the 18th and then there is a 12 gap between 19 February and 8 March. Am I 13 right? 14 <b>A. Uhuh.</b> 15 Q. That is I think a 17- day gap. Then there 16 is messages on the 9th and if we go to the 17 next page then between 9 March and 9 April 18 there is another gap when there are no 19 messages. 20 <b>A. Correct.</b> 21 Q. Then between 9 April and 30 April there 22 is another gap when there are no messages. 23 <b>A. Correct.</b> 24 Q. And then if we go on further down that 25 page, we see after 30 April when there have</p> <p style="text-align: center;">Page 246</p>	<p>1 MR GIBBS: Let us deal with it. The 2 messages in red you have also disclosed. 3 These are things that I think you would say 4 plainly have nothing to do with the inquiry at 5 all. 6 <b>A. That's correct.</b> 7 Q. But in case it matters let us just have a 8 look. There is an attached video on the 13th 9 and then on the 20th - no, I think not. Can 10 we take that off screen? (To the witness) Is 11 this about visiting your sick mother in Spain? 12 <b>A. Yes.</b> 13 Q. Unless I am asked to deal with that... So 14 far as you can tell, in relation to WhatsApp 15 messages in your possession relevant to the 16 inquiry, did you make, back in 2023, prompt 17 disclosure of them? 18 <b>A. Yes.</b> 19 MR SANTOS: Sir, I have no questions in 20 further questions. The only thing is I have 21 been asked by Mr Wagner to point to E867 22 which is the DPP's affidavit, and in 23 paragraph 5 at the top of that page is the 24 DPP's account of the conversation. I will 25 just read it out for the record. "There was a</p> <p style="text-align: center;">Page 248</p>

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<p>1 brief general discussion about why the RGP 2 wanted to interview JL and I recall 3 explaining that there were matters upon 4 which JL needed to be asked questions and 5 give his version of events or explanations if 6 he could provide them. I would not have 7 gone into any detail about operational 8 matters. It was my view that the evidence 9 against JL was substantially weaker than 10 what I had seen in relation to the others that 11 were alleged to have been involved and I 12 might have said that but cannot explicitly 13 recall." That is his account. The other thing 14 he says - what I was referring to earlier in 15 paragraph 7 where he said: "I do not know 16 what the notes mean below the line break. I 17 assume that they are notes by LV to himself, 18 given the way they read", and he gives his 19 reason. 20 THE CHAIRMAN: I did not want the 21 impression to be given, which I know Mr 22 Wagner was not trying to create, that the 23 DPP necessarily accepted what -- 24 MR SANTOS: Yes. 25 MR WAGNER: The part I showed Mr</p> <p style="text-align: center;">Page 249</p>	<p style="text-align: center;">1      1</p> <p style="text-align: center;">2</p> <p style="text-align: center;">Page 251</p>
<p>1 Richardson accords with what he remembers 2 as well. He said: "It is possible I would have 3 said something to that effect." I do not think 4 he disputes that bit. It is another section that 5 he disputes. 6 MR SANTOS: That is a point we can look at 7 the documents. 8 THE CHAIRMAN: Yes, okay. 9 MR SANTOS: Thank you. (To the witness) 10 Thank you very much, Mr Richardson. 11 THE CHAIRMAN: (To the witness) Thank 12 you very much indeed for coming back. I am 13 sorry we have had to trouble you again. I do 14 not anticipate we will trouble you again. 15 (The witness withdrew) 16 THE CHAIRMAN: Tomorrow? 17 MR SANTOS: Closing submissions., 18 THE CHAIRMAN: Closing submissions. It 19 is obviously important that people keep to the 20 timetable because I do not particularly want 21 to go over time tomorrow. Okay. 22 MR SANTOS: Thank you, sir. 23 (16.23) 24 (Adjourned until 10.00 am, Friday, 11 April 25 2025)</p> <p style="text-align: center;">Page 250</p>	

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