

INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

Convened by a Commission issue by His Majesty's Government of Gibraltar on 4<sup>th</sup> February 2022 in Legal Notice No.34 of 2022

---

**FIFTH WITNESS STATEMENT OF COMMISSIONER OF POLICE RICHARD ULLGER**

---

1. My name is Richard Ullger and I am the Commissioner of Police with the Royal Gibraltar Police (RGP). This is my fifth statement to the Public Inquiry.
2. On the 10<sup>th</sup> of February 2025, the Chairman ruled ("**the Ruling**") on an application made by the Government Parties to reconvene the Public Inquiry hearing, in order that I together with Mr McGrail, Mr Yeats and Mr Richardson be given the opportunity to give oral explanations in public for the alleged delays, alleged failures and possible deletions of Whatsapp messages.
3. The RGP did not oppose the application and expressed the view that we were very willing to assist the Chairman further as required. Moreover that there had been no failures by the RGP or the individual officers in meeting their disclosure obligations as explained to us by previous and current Solicitors to the Inquiry ("**STI**") and Counsel to the Inquiry ("**CTI**") as clearly reflected in correspondence between our lawyers Cruzlaw LLP (later Ellul & Cruz) and specifically our counsel Mr Nick Cruz and at numerous meetings with members of our team led by Assistant Commissioner Cathal Yeats and Superintendent Mark Wyan. Our position has always been and remains that we have given very comprehensive disclosure at the material time during 2022 and 2023 into 2024 in extraordinarily close cooperation (indeed led by their guidance) of the STI particularly on questions of relevance. Of course, as the hearing evolved matters were raised that then resulted in further requests that we dealt with not only expeditiously but forensically including disclosure as requested in September 2024 and December 2024. Any criticism levelled at the RGP now (with the benefit of hindsight) is with all due respect misplaced in context, and if seen with a eye on relevance to the Provisional

List of Issues ("PLOI") as explained to us by our counsel after engagement with STI and by STI.

4. The Ruling indicated that the RGP would file further evidence and this statement reflects that promise as will the sixth statement from ACOP Yeats that will delve deeper into disclosure issues. I do not intend to duplicate this evidence but I have had the benefit of reviewing ACOP Yeats' sixth witness statement which is filed on behalf of the RGP and will as required rely on his evidence given on behalf of our organization.
5. I would however, like to first address the Chairman's appreciation for the relationship between myself and Mr McGrail as highlighted in Page 14, Paragraph 56 of his letter of the 10<sup>th</sup> of February 2025.
6. In my first statement to the inquiry dated the 17<sup>th</sup> of November 2022, I make no mention of my personal and professional relationship with Mr McGrail, as I only answered the questions that had been posed to me by STI. I do however relate to Mr McGrail's departure in page 17, paragraph 51 of my statement, where I say *'Mr McGrail's departure from the RGP was a difficult time for me, and many others particularly the senior officers.'*
7. In my oral evidence to the Public Inquiry, on the 30<sup>th</sup> April 2024, I was asked by the CTI about my relationship with Mr McGrail when we were both police officers (Transcripts to the PI Day 13, page 79, 9-11 refers). My answer (Transcripts to the PI, Day 13, page 79, 12-23 refers) was – *'So there was a personal relationship and there was a professional relationship. Personally, both Ian and I were very, very good friends, probably best friends and we were there for each other during our difficult times in our lives and during good times in our lives. At a professional, he was four years senior to what I was, so I was always chasing him in regards of career progression. We worked in different departments together and we had a very good professional relationship.'*
8. I would like to reiterate that our bond was built upon the challenges we faced in life, and I am forever grateful for his relationship towards me when I lost my wife to cancer in 2010, and the years before that during her treatment. I know he too, was grateful for my support to him during his challenges in life. Professionally we always supported each other, but we also always ensured that there existed governance structures in our business areas. Equally, we would willingly share ideas and decisions to reap the best benefits for the RGP.

9. Of course there were many emotive exchanges between us in the period between the 12 May and 9 June 2020 as I saw what I (and the rest of the RGP senior team) considered an entirely unfair process in the treatment of former Commissioner Mr McGrail which our counsel Mr Cruz addressed in the RGP's opening and closing submissions. I should add for reasons that we did not understand then or now and will allow the Chairman to report on.
10. Naturally, there is no longer a professional relationship between me and Mr McGrail, but sadly, events over the past few years have also dented our personal relationship. In essence there is no longer a friendship.
11. I now wish to turn to the disclosure of WhatsApp messages by the RGP. For technical reasons around seeking messages/chats from some of our phones and organisational implementation, of work phones, I will allow ACOP Yeats to provide this, as he has a better knowledge and an understanding of the function.
12. The RGP Mobile Device Policy (Exhibit **CY/WS5/2**) was introduced on the 22<sup>nd</sup> of October 2019. It was implemented after a data breach by one of our officers and it was intended to cater for the use of RGP issued mobile devices, enabling work only related communication whether through voice calls, messages, emails or any other approved communication. I believe that the RGP was and is still the only organisation in the public sector to have work phones and a policy in place to support this.
13. Notwithstanding this, we acknowledge that there are gaps in the policy, with the Chairman alluding to this in the Ruling, inviting representations about, *'when an officer or support staff member moves from his relevant post, the officer/support staff member will with the assistance of the RGP IT technician ensure that his / her work issued mobile device is wiped of all personal data and is handed over to the person taking over their role'*.
14. When we adopted the policy, we sought assistance from our Information Technology (IT) providers, His Majesty's Government of Gibraltar (HMGoG) Information Technology and Logistical Department ("ITLD"). They refused to do so, claiming that they could not support us, and therefore having no scope to do this elsewhere, we resorted to implementing a system ourselves. Again, how this happened, I will leave ACOP Yeats to explain the technical detail, but one can already envisage issues if a

new system is not implemented by individuals who have the knowledge and control of our systems.

15. This is one example when the RGP needs to depend on the Government Service to provide a provision and it is not supported with the urgency we demand. In essence we are part of the larger Government family, and our priorities and needs are not shared by others. It is for the very reason that the ACOP Yeats recently wrote to the Minister for Justice seeking for the RGP to come away from HMGoG's wider IT service. This of course has financial budgetary constraints, and delays matters. It is also part of the recommendations made by His Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) in their 2022 report on the RGP.
16. In fact, in our closing submissions to the Public Inquiry on the 7<sup>th</sup> of June 2024, our lawyer Mr Cruz highlighted the importance of the Independence of the RGP, citing numerous reasons why in paragraph 52, but in particular 52.15 about the need for the RGP to be totally separate from the Government Service for IT services.
17. Our Mobile Device Use Policy is being reviewed by our Information Management and Vetting Unit (IMVU), but our original policy was mirrored at the time with UK Policing best practice, which is no different today, bar a few minor changes. The effective management of police information requires financial investing and resourcing, both of which have been huge challenges for the RGP over the past few years and continue to be. This has also been addressed in ACOP Yeats sixth witness statement.
18. When I prepared my first statement to the Public Inquiry in November 2022, part of my disclosure exercise was to check my personal and work mobile phone for messages with key officers linked to the Public Inquiry issues. I had no Whatsapp data and therefore shared no messages as part of my disclosure, nor was I able to make any relevance assessments.
19. Notwithstanding this, I and the RGP disclosed a huge amount of data to this Public Inquiry, from emails to reports and statements, all of which went into over a million documents, more than any other of the core participants. In doing so, thousands of hours were spent collecting the data, reviewing it and assessing its relevance into categories. We had to redeploy officers to do this exercise and then lost the entire team, bar one officer to the whistleblower process, requiring our most senior officers to do this exercise together with our legal advisors and STI. I must reiterate that the

Public Inquiry was very important to us, and we provided immediate responses and attention to any of the requests made by STI, but it was not the only single thing happening at the time for us at a strategic level, and therefore imposed an extra workload on the Command Team. At the time we were extremely busy with implementing the recommendations by HMICFRS, preparing for our policing response to policing demands and challenges, reorganising the RGP due to the loss of so many officers in a given time and dealing with crime and critical incidents.

20. On the 27<sup>th</sup> of June 2024, I received an email from Mr Cruz, requesting any WhatsApp messages within a time frame (12<sup>th</sup> of May 2020 to 9<sup>th</sup> of June 2020) between myself and Ian McGrail related to the PLOI. This had been a request submitted to us by STI. This arose because of a request from the HMGoG parties on the 24 June 2024.
21. The following day I explained to Mr Cruz by email that I had no such messages with Mr McGrail, and having checked my data further, I had noticed that date ranges with most of my family members were different, indicating that I had lost messages at different stages at the beginning with people that I often communicated with. I could only think that this was because I purchased a new phone in June 2020. At this stage, I was aware that we had recovered data for other purposes in the context of a criminal investigation from Mr McGrail and I therefore suggested to Mr Cruz that we reach out to Mr McGrail's legal advisors and seek his permission to see if we could establish if indeed there was any messages between us during the specific time and on the core issues.
22. I am pleased to report that messages were recovered and I disclosed these to the Public Inquiry via Ellul & Cruz to STI on the 2 September 2024. Subsequently an extended date range (1 January-30 June 2020) was requested and provided on the 20 December 2024. It is important to note all messages "connected" to the PLOI were provided not only ones relevant to the PLOI. We also provided all raw material (namely all messages) to the STI so that they could judge whether our and Ellul & Cruz's assessment of "connected" was correct. This data was shared by STI on the 4 November 2024 with other CP's though, I understand from Mr Cruz parts of our disclosure were only sent to CP's by STI on the 11 February 2025, that had according to STI been inadvertently not disclosed previously by STI.
23. Finally, although I have only seen this disclosure recently I would add that I do not think the disclosure requested and provided since June 2024 would be of any significant

relevance to the PLOI (albeit clearly connected to it) save perhaps messages exchanged between me and the then Minister for Justice the Honorable Ms Samantha Sacramento (who had ministerial responsibility for the RGP) who at the material time expressed no discontent over Mr McGrail's performance and indeed expressed surprise how matters developed.

**STATEMENT OF TRUTH**

I believe the contents of this witness statement to be true.



.....  
NAME: *Richard Janser*

DATE: 11 March 2025